1972. No. 322 **[NC]**

NATIONAL INSURANCE AND INDUSTRIAL INJURIES

Jamaica

ORDER, DATED 27TH NOVEMBER 1972, MADE UNDER SECTION 99 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966 AND SECTION 79 OF THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND) 1966.

WHEREAS at London on 20th September 1972 an Agreement on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica (which Agreement is set out in the Schedule and is hereinafter referred to as "the Agreement") was signed on behalf of those Governments:

AND WHEREAS by Article 29 of the Agreement it is provided that the Agreement shall enter into force on 1st October 1972:

AND WHEREAS by section 99 of the National Insurance Act (Northern Ireland) 1966(**a**) and section 79 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**b**) 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 subsection (1)(*a*) of section 1 of the Northern Ireland (Temporary Provisions) Act 1972(**c**) it is provided that, so long as that section has effect, all functions which apart from that Act belong to the Governor in Council shall be discharged by the Secretary of State:

NOW, THEREFORE, the Secretary of State, in exercise of the powers conferred upon him by the said section 99, by the said section 79 and by section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972, and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the National Insurance and Industrial Injuries (Jamaica) Order (Northern Ireland) 1972 and shall come into operation with effect from 1st October 1972.

Modification of Acts

2. The provisions contained in the Agreement shall have full force and effect so far as they relate to Northern Ireland and provide for reciprocity in any matters specified in section 99(1) of the National Insurance Act (Northern Ireland) 1966 or section 79(1) of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966; and accordingly the National Insurance Acts (Northern Ireland) 1966 to 1972 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1972 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to those provisions.

Dated this 27th day of November 1972.

W. S. I. Whitelaw,
One of Her Majesty's Principal Secretaries of State.

(**a**) 1966. c. 6 (N.I.). (**b**) 1966. c. 9 (N.I.). (**c**) 1972. c. 22.

SCHEDULE

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica have agreed as follows:

PART I—DEFINITIONS AND SCOPE

ARTICLE 1

For the purposes of this Agreement, unless the context otherwise requires—

(*a*) "benefit" means any pension, allowance, or other benefit payable under the legislation of one (or the other) Contracting Party, and includes any increase payable for a dependant;

(*b*) "competent authority" means, in relation to the United Kingdom, the Secretary of State for Social Services for England, Scotland and Wales, the Ministry of Health and Social Services for Northern Ireland, the Isle of Man Board of Social Security, or the States of Guernsey Insurance Authority, as the case may require, and, in relation to Jamaica, the Minister responsible for National Insurance, and in relation to either the United Kingdom or Jamaica, as the case may require, any person or body to whom the functions, relevant to this Agreement, of any of those persons or bodies, may be transferred;

(*c*) "a contribution paid by or credited to a person" means a contribution or a credit (as the case may require), appropriate to the benefit in question, which has been paid by or credited to a person under the legislation of one (or the other) Party;

(*d*) "legislation" means, according to the context, the legislation specified in Article 2 of this Agreement in force in any part of the territory of one (or the other) Party;

(*e*) "old age benefit" means, in relation to the United Kingdom, a retirement pension or old person's pension, including age addition where appropriate, payable under the legislation of the United Kingdom, and, in relation to Jamaica, an old age pension payable under the legislation of Jamaica;

(*f*) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland, the Isle of Man, and the Islands of Guernsey, Alderney, Herm and Jethou, and, in relation to Jamaica, the island of Jamaica;

(*g*) other words and expressions have the meanings respectively assigned to them under the legislation which is being applied.

ARTICLE 2

(1) The provisions of this Agreement 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, or repealed by legislation consolidated by, those Acts;

(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 Social Insurance (Guernsey) Law 1964;

(*b*) in relation to Jamaica, the National Insurance Act, 1965;

(2) Subject to the provisions of paragraph (3) of this Article, this Agreement shall apply also to any law, order or regulation which supersedes, amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) This Agreement shall apply, only if the Contracting Parties so agree, to laws, orders or regulations which amend or supplement the legislation mentioned in paragraph (1) or (2) of this Article for the purpose of giving effect to any reciprocal agreement on social security between one (or the other) Party and a third Party.

PART II—CONTRIBUTIONS

ARTICLE 3

(1) An employed person shall be subject, in relation to his employment, to the legislation of only one Contracting Party.

(2) If an insured person is liable to pay contributions as an employed person for any period under the legislation of one Party, he shall not be liable to pay contributions as a self-employed person or as a non-employed person for that period under the legislation of the other Party.

ARTICLE 4

(1) Subject to the provisions of paragraphs (2) and (3) of this Article, where a person is employed in the territory of one Contracting Party, the legislation of that Party shall apply to him, even if he resides in the territory of the other Party or if his employers' principal place of business is in that territory.

(2) Where a person, who is insured under the legislation of one Party and is employed by an employer who has a place of business in the territory of that Party is sent by that employer to the territory of the other Party, that legislation shall continue to apply to him as if he were employed in the territory of the former Party, provided that his employment in the territory of the latter Party is not expected to last for more than twenty-four months or such longer period as may be agreed by the competent authorities of the two Parties in any particular case.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to members of the regular forces of either Party or to any person to whom any of the provisions of Articles 5, 6 and 7 of this Agreement apply.

ARTICLE 5

(1) Subject to the provisions of paragraph (2) of this Article, where a person, insured under the legislation of one Contracting Party and employed in the Government service of that Party or in the service of any public corporation of that Party, is sent in the course of his employment to the territory of the other Party, the legislation of the former Party shall continue to apply to him as if he were employed in the territory of the former Party.

(2) If a person has paid contributions under the legislation of one Party—

(*a*) in respect of his employment as a diplomatic agent of the other Party before the Vienna Convention on Diplomatic Relations came into force for the former Party; or

(*b*) in respect of any other employment in the Government service of the other Party before this Agreement comes into force;

he shall be entitled to choose, within three months of the entry into force of this Agreement, that the legislation of the former Party shall apply to him in respect of such employment; and, if he so chooses;

(i) his choice shall take effect on the day on which he gives notice to the competent authority of the former Party;

(ii) from that day the legislation of the former Party shall apply to him in respect of such employment, and the Government of the latter Party shall pay contributions under that legislation both as his employer and on behalf of him as an employed person; and

(iii) any contributions so paid by that Government before that day shall be treated as if they had been properly paid under that legislation.

(3) Subject to the provisions of paragraphs (1) and (2) of this Article, where a person is employed in the territory of one Party, either in the Government service of the other Party or in the private service of a national of the latter Party to whom the provisions of paragraph (1) or paragraph (2) of this Article apply, the legislation of the former Party shall apply to him, but, within three months of the entry into force of this Agreement or of the beginning of his employment in the territory of the former Party, whichever is the later, he may choose to be covered by the legislation of the latter Party; and, if he so chooses, his choice shall take effect on the day on which he gives notice to the competent authority of the former Party.

(4) For the purpose of this Article the expression "Government service" includes, in relation to the United Kingdom, the Government service of any part of the territory of the United Kingdom.

ARTICLE 6

(1) For the purpose of this Article, "ship" means, in relation to a Contracting Party, a ship, vessel or hovercraft (other than a ship, vessel or hovercraft belonging to Her Majesty) which is owned in the territory of that Party, or any other ship, vessel or hovercraft which is registered in that territory and not owned in the territory of the other Party; and a ship, vessel or hovercraft shall be deemed to be owned in one (or the other) territory if the owner, or where there is more than one owner, the managing owner or manager, resides or has his principal place of business in that territory.

(2) Subject to the provisions of paragraphs (3) and (4) of this Article, if a person, ordinarily resident in the territory of one Party, is employed on board a ship of the other Party, then, in relation to that employment, the legislation of the latter Party shall apply to him as if he were ordinarily resident in the territory of that Party.

(3) If a person, ordinarily resident in the territory of one Party, is employed as a master or a member of the crew of a ship of the other Party which is registered in the territory of the former Party or calls regularly at ports of that Party, then, in relation to that employment, the legislation of the former Party shall apply to him as if he were employed as master or a member of the crew of a ship of the former Party.

(4) If a person, ordinarily resident in the territory of one Party, is employed on board a ship of the other Party, in the service of an employer who has a place of business in the territory of the former Party and that employer is not the owner of the ship, then, in relation to that employment, the legislation of the former Party shall apply to him as if he were employed on board a ship of that Party.

ARTICLE 7

Where a person ordinarily resident in the territory of one Contracting Party is employed as a member of the crew of an aircraft registered in the territory of the other Party, the legislation of the latter Party shall apply to him as if any conditions relating to residence or domicile were satisfied in his case.

PART III—BENEFIT

BENEFIT OF ONE CONTRACTING PARTY PAYABLE IN THE TERRITORY OF THE OTHER

ARTICLE 8

(1) The provisions of this Article shall apply only to old age benefit, widow's benefit and invalidity benefit, payable under the legislation of one (or the other) Contracting Party, and widower's benefit payable under the legislation of Jamaica.

(2) Subject to the provisions of paragraph (4) of this Article, where a person would be entitled to receive benefit under the legislation of one Party if he were in the territory of that Party, he shall be entitled to receive that benefit while he is in the territory of the other Party, provided that, if he is not ordinarily resident in the territory of the former Party, then, subject to the provisions of paragraph (3) of this Article, the rate of his benefit shall be determined in accordance with any provisions of that legislation which concern the payment of benefit to persons who are not ordinarily resident in the territory of the former Party.

(3) Any increase of benefit rates which, after the entry into force of this Agreement, is awarded under the legislation of one Party to beneficiaries in the territory of that Party shall apply also to beneficiaries under the legislation of that Party who are ordinarily resident in the territory of the other Party.

(4) Where a person is entitled to receive invalidity benefit under the legislation of the United Kingdom, he shall be entitled to receive that benefit in the territory of Jamaica provided that, at the time of leaving the United Kingdom he was considered by the competent authority of the United Kingdom likely to be permanently incapacitated for work, and that he subsequently continues to satisfy that authority that he remains incapacitated for work.

BENEFITS FOR EMPLOYMENT INJURY AND INDUSTRIAL INJURIES

ARTICLE 9

(1) Where a person would be entitled to receive any benefit under the legislation of one Contracting Party in respect of an accident or a prescribed disease arising out of and in the course of insurable employment if he were in the territory of that Party, he shall be entitled to receive that benefit while he is in the territory of the other Party.

(2) The provisions of paragraph (1) of this Article shall apply also to any increase of the benefit specified in that paragraph and any additional allowance payable therewith, other than a special hardship allowance payable under the legislation of the United Kingdom.

ARTICLE 10

Where under the legislation of one Contracting Party, a person would be entitled to benefit in respect of a death due to an accident or a prescribed disease arising out of and in the course of insurable employment if a child were in the territory of that Party 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 is in the territory of the other Party or was there at the time.