1972. No. 321 **[NC]**

FAMILY ALLOWANCES, NATIONAL INSURANCE AND INDUSTRIAL INJURIES

Austria

ORDER, DATED 27TH NOVEMBER 1972, MADE UNDER SECTION 99 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966 AS EXTENDED BY SECTION 21 OF THE FAMILY ALLOWANCES ACT (NORTHERN IRELAND) 1966, AND SECTION 79 OF THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND) 1966.

WHEREAS at Vienna on 18th June 1971, a Convention on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Austria (which Convention is set out in Schedule 1 and is hereinafter referred to as "the Convention") and a Protocol supplementing the Convention (which Protocol is set out in Schedule 2 and is hereinafter referred to as "the Protocol") were signed on behalf of those Governments:

AND WHEREAS by Article 45 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 by Article 5 of the Protocol it is provided that the Protocol shall form an integral part of the Convention:

AND WHEREAS the Convention has been ratified by the said Governments and the instruments of ratification were exchanged on 10th August 1972, and accordingly the Convention and the Protocol entered into force on 1st October 1972:

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 subsection (1)(*a*) of section 1 of the Northern Ireland (Temporary Provisions) Act 1972(**d**) 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 as so extended, 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:

(**a**) 1966. c. 6 (N.I.). (**b**) 1966. c. 8 (N.I.). (**c**) 1966. c. 9 (N.I.). (**d**) 1972. c. 22.

Citation and commencement

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

Modification of Acts

2. The provisions contained in the Convention and the Protocol 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 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 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.

SCHEDULE 1

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

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth (hereinafter referred to as "Her Britannic Majesty") and the Federal President of the Republic of Austria;

Desirous of strengthening the ties between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria in the field of social security;

Have resolved to conclude a Convention and for that purpose have appointed as their Plenipotentiaries:

Her Britannic Majesty:

For the United Kingdom of Great Britain and Northern Ireland:

His Excellency Sir Peter Allix Wilkinson, KCMG, DSO, OBE, Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary at Vienna;

The Federal President of the Republic of Austria:

For the Republic of Austria:

Herrn Dr. Rudolf Kirchschläger,

Federal Minister for Foreign Affairs;

Who, having communicated to each other their full powers, found in good and due form, have agreed as follows:—

PART I

GENERAL PROVISIONS

ARTICLE 1

(1) For the purpose of present Convention:

(i) "the United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and "Austria" means the Republic of Austria;

(ii) "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, Hern and Jethou, and, in relation to Austria, the territory of Austria;

(iii) "national" means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, or a person who is a British subject by virtue of Section 2, 13 or 16 of the British Nationality Act 1948, or the British Nationality Act 1965, or a British protected person within the meaning of the said Act of 1948, and, in relation to Austria, an Austrian national or a person having German as his mother tongue (Volksdeutscher) who is stateless or whose nationality has not been determined and who on 11 July, 1953, on 1 January, 1961 or on 27 November, 1961 has been resident, otherwise than temporarily, in the territory of Austria;

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

(v) "competent authority" means, in relation to the United Kingdom, the Secretary of State for Social Services, the Ministry of Health and Social Services for Northern Ireland, the Isle of Man Board of Social Services, 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 Austria, the competent Federal ministers;

(vi) "insurance authority" means, in relation to the United Kingdom, the competent authority, and, in relation to Austria, the institution or authority competent for the application of the relevant legislation of Austria;

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

(viii) "dependant" means, in relation to the United Kingdom, a person who would be treated as such for the purpose of any claim to receive benefit in respect of a dependant under the legislation of the United Kingdom, and, in relation to Austria, a dependant as defined in the legislation of Austria;

(ix) "insurance period" means a contribution period or equivalent period;

(x) "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) High Contracting Party;

(xi) "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 Austria, a period which is treated as equivalent to a contribution period;

(xii) "benefit" means any pension, allowance or other cash benefit provided under the legislation of one (or the other) High Contracting Party;

(xiii) "pension", "allowance" or "benefit" means a pension, allowance or benefit, including any increase thereof and any additional allowance payable therewith, other than the supplement payable under the legislation of Austria (Ausgleichszulage);

(xiv) "sickness benefit" means, in relation to the United Kingdom, sickness benefit payable under the legislation of the United Kingdom other than invalidity pension, and, in relation to Austria, benefit payable under the legislation of Austria in the case of incapacity for work due to illness;

(xv) "maternity benefit" means, in relation to the United Kingdom, maternity benefit payable under the legislation of the United Kingdom, and, in relation to Austria, cash benefit payable under the legislation of Austria in the case of maternity other than Karenzurlaubsgeld;

(xvi) "unemployment benefit" means unemployment benefit as defined in the legislation concerned other than Karenzurlaubsgeld under the legislation of Austria;

(xvii) "invalidity pension" means, in relation to the United Kingdom, any sickness benefit as defined in the legislation of the United Kingdom which becomes payable in any period of interruption of employment as defined in that legislation to a person who;

(*a*) has received such benefit for 312 days of that period while he was in the territory of either High Contracting Party and is, in the opinion of the insurance authority of the United Kingdom, likely to remain permanently incapable of work; or

(*b*) has received such benefit for 36 days of that period and is entitled to an invalidity pension under the legislation of Austria for those 36 days; or

(*c*) has become entitled while he is in Austria to an invalidity pension under the legislation of Austria;

and, in relation to Austria, a pension payable under the pension legislation of Austria for reduced working capacity or loss of earning capacity;

(xviii) "old age pension" means, in relation to the United Kingdom, a contributory old age pension or retirement pension payable under the legislation of the United Kingdom, and, in relation to Austria, benefit payable under the pensions insurance legislation of Austria in respect of the contingencies of old age;

(xix) "survivor's pension" means, in relation to the United Kingdom, widow's benefit, and, in relation to Austria, benefit payable under the pensions insurance legislation of Austria on the death of an insured person;

(xx) "widow'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;

(xxi) "family allowance" means a family allowance as defined in the legislation concerned;

(xxii) "gainfully occupied" means employed or self-employed;

(xxiii) "employed person" means a person who comes within the definition of an employed person or a person who is treated as such in the applicable legislation; "employment" means employment as an employed person and the words "employ" and "employer" refer to such employment;

(xxiv) "self-employed person" means a person who comes within the definition of a self-employed person or a person who is treated as such in the applicable legislation;

(xxv) "vessel or aircraft" means, in relation to the United Kingdom, a vessel or hovercraft registered in the territory of the United Kingdom or any other British ship or vessel 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, or 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 Austria, a ship flying the Austrian flag in accordance with the legislation of Austria or an aircraft registered in Austria.

(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 the present Convention shall apply:

(i) in relation to Austria, to the legislation concerning:

(*a*) sickness insurance other than the following special schemes:

(*aa*) the special scheme for the surviving dependants of persons killed in the war and of conscripts; and

(*bb*) the special scheme for war disabled ex-service men and conscripts undergoing occupational training;

(*b*) industrial injuries insurance other than industrial injuries insurance for war disabled ex-service men and conscripts undergoing occupational training;

(*c*) pensions insurance for wage earners, salaried employees and miners;

(*d*) pensions insurance for self-employed persons in commerce and industry;

(*e*) pensions insurance for self-employed persons in agriculture and forestry;

(*f*) unemployment insurance; and

(*g*) family allowances;

(ii) in relation to the United Kingdom, to:

(*a*) the National Insurance Act 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Act 1948, and the legislation which was consolidated by those Acts or repealed by legislation consolidated by them;