**1970. No. 22** [NC]

# NATIONAL INSURANCE AND INDUSTRIAL INJURIES

## Bermuda

ORDER IN COUNCIL, DATED 9TH FEBRUARY 1970, 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.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

GREY OF NAUNTON

WHEREAS an Agreement on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Bermuda (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 23 of the Agreement it is provided that (subject to the provisions of paragraphs (1) and (2)) the Agreement shall enter into force on 1st November 1969:

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:

NOW, THEREFORE, I, RALPH FRANCIS ALNWICK, BARON GREY OF NAUNTON, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Royal Victorian Order, Officer of the Most Excellent Order of the British Empire, Governor of Northern Ireland, in pursuance of the said section 99 and the said section 79, and of all other powers enabling me in that behalf, by and with the advice of the Privy Council of Northern Ireland, do hereby order as follows:

*Citation*

**1.** This Order may be cited as the National Insurance and Industrial Injuries (Bermuda) Order (Northern Ireland) 1970.

*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 either 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 the National Insurance Acts

(a) 1966. c. 6 (N.I.). (b) 1966. c. 9 (N.I.).

(Northern Ireland) 1966 to 1969 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1969 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to those provisions.

GIVEN at Government House, Hillsborough, this 9th day of February 1970.

*H. V. Kirk*

*W. K. Fitzsimmons*

*W. J. Long*

SCHEDULE

## AGREEMENT ON SOCIAL INSURANCE BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF BERMUDA

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Bermuda 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, 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 Bermuda, the Insurance Officer of Bermuda;

(*c*) "dependant" means a person for whom an increase of benefit is payable under the legislation which is being applied;

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

(*e*) "old age pension" means, in relation to the United Kingdom, a retirement pension or old age pension payable under the legislation of the United Kingdom, and, in relation to Bermuda, a contributory old age pension payable under the legislation of Bermuda;

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

(*g*) "widow's benefit" means, in relation to the United Kingdom, widow's benefit payable under the legislation of the United Kingdom, and, in relation to Bermuda, a widow's allowance payable under the legislation of Bermuda.

#### 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 1948, 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 1948;

(iii) the Insular Insurance (Jersey) Law 1950; and

(iv) the Social Insurance (Guernsey) Law 1964;

(*b*) in relation to Bermuda, to the Workmen's Compensation Act 1965 and the Contributory Pensions Act 1967.

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

(3) The Agreement shall apply, only if the Contracting Parties so agree, to laws, orders or regulations, which amend or supplement the legislation specified in paragraph (1) 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 Party, the legislation of that Party shall apply to him, even if he resides in the territory of the other Party or if his employer's 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 twelve 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 Her Majesty's regular forces or to any person to whom any of the provisions of Articles 5, 6 and 7 of this Agreement apply.

### ARTICLE 5

(1) Where a person, employed in the Government service of one Contracting Party and insured under the legislation of that Party, is sent 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 its territory.

(2) Where a person in the Government service of one Party is employed in the territory of the other Party, having been engaged for that employment in that territory, the legislation of the latter Party shall apply to him.

(3) The competent authorities of the Parties may provide by agreement that, where a person, employed by a public corporation or official body of one Party and insured under the legislation of that Party, is sent to the territory of the other Party, the legislation of the former Party shall apply to him as if he were employed in its territory.

### ARTICLE 6

If a person is employed as master or a member of the crew of any ship or vessel belonging to Her Majesty which is stationed in Bermuda and he is not a member of any of the naval, military or air forces of the Crown, he shall be insured in relation to that employment—

(*a*) under the legislation of the United Kingdom if he is ordinarily resident in the United Kingdom;

(*b*) under the legislation of Bermuda if he is ordinarily resident in Bermuda.

ARTICLE 7

(1) For the purpose of this Article, "ship" means, in relation to a Contracting Party, a ship or vessel (other than a ship or vessel belonging to Her Majesty) which is owned in the territory of that Party, or any other ship or vessel which is registered in that territory and not owned in the territory of the other Party; and a ship or vessel 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 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, and is in the service of an employer having a place of business in the territory of the former Party and not being 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 8

Where a person ordinarily resident in Bermuda is employed as a member of the crew of an aircraft registered in the United Kingdom, the legislation of the United Kingdom shall apply to him as if any conditions relating to residence or domicile in the United Kingdom were satisfied in his case.

## PART III—BENEFIT

*Benefit of one Contracting Party payable in the territory of the other*

ARTICLE 9

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

(2) 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 who are ordinarily resident in the territory of the other Party.

(4) Where a person who is entitled to receive benefit under the legislation of one Party would be entitled to receive an increase of that benefit if a dependant of his were in the territory of that Party, he shall be entitled to receive that increase if the dependant is in the territory of the other Party.