1970. No. 21 **[NC]**

FAMILY ALLOWANCES AND NATIONAL INSURANCE

New Zealand

ORDER IN COUNCIL, DATED 9TH FEBRUARY 1970, MADE UNDER SECTION 99 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

GREY OF NAUNTON

WHEREAS at Wellington on 19th June 1969 an Agreement on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand (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 36 of the Agreement it is provided that the Agreement shall enter into force on a date to be agreed by Exchange of Letters between the Contracting Parties:

AND WHEREAS by an Exchange of Letters on 11th December 1969 between the Contracting Parties it was agreed that the Agreement should enter into force on 1st January 1970:

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**), 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 as so extended, 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, commencement and interpretation

1.—(1) This Order may be cited as the Family Allowances and National Insurance (New Zealand) Order (Northern Ireland) 1970 and shall come into operation with effect from 1st January 1970.

(2) For the purposes of this Order, Article 36 of the Agreement shall be construed as if for the words "on a date to be agreed by Exchange of Letters between the Contracting Parties" there were substituted the words "on 1 January 1970".

(**a**) 1966. c. 6 (N.I.). (**b**) 1966. c. 8 (N.I.).

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 as extended by section 21 of the Family Allowances Act (Northern Ireland) 1966; and the Family Allowances Acts (Northern Ireland) 1966 to 1969 and the National Insurance 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.

Revocation of Order

3. The National Insurance (Reciprocal Agreement with New Zealand) Order (Northern Ireland) 1956(c) is hereby revoked.

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

H. V. Kirk
W. K. Fitzsimmons
W. J. Long

(c) S.R. & O. (N.I.) 1956, No. 28.

SCHEDULE

AGREEMENT

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

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

Having established reciprocity in the field of social security by means of the reciprocal arrangements on family benefits which they made in 1948 and the Agreement on Social Security which they made in 1955,

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.—DEFINITIONS AND GENERAL PROVISIONS

ARTICLE 1

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

(*a*) "age benefit", "invalid's benefit", "mother's allowance", "orphan's benefit" and "superannuation benefit" have the same meaning as in the legislation of New Zealand;

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

(*c*) "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;

(*d*) "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, or the Isle of Man Board of Social Services, as the case may require, and, in relation to New Zealand, the Social Security Commission;

(*e*) "contribution" means a flat-rate contribution;

(*f*) "country" means, according to the context, the United Kingdom or New Zealand;

(*g*) "family benefit" means, in relation to the United Kingdom, family allowances payable under the legislation of the United Kingdom and, in relation to New Zealand, family benefit payable under the legislation of New Zealand;

(*h*) "the former Agreement" means the Agreement on Social Security signed in Wellington on 20 December 1955 on behalf of the Contracting Parties;

(*i*) "full standard rate", in relation to any benefit payable under the legislation of the United Kingdom, means the rate at which the benefit would be paid to the person concerned, subject to any earnings rule which may be appropriate, if the relevant contribution conditions were fully satisfied in his case;

(*j*) "guardian's allowance", "retirement pension", "widow's allowance", "widowed mother's allowance" and "widow's basic pension" have the same meaning as in the legislation of the United Kingdom;

(*k*) "legislation" means, according to the context, the laws, orders and regulations specified in Article 2 which are or have been or may hereafter be in force in any part of one (or the other) country;

(*l*) "New Zealand" does not include the Cook Islands, Niue or the Tokelau Islands;

(*m*) "parent" includes a person who is treated as a parent under the legislation which is being applied;

(*n*) "pension age" means, in relation to any person, the age at which that person is treated as reaching pensionable age under the legislation of the United Kingdom;

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

(*p*) "the reciprocal arrangements on family benefits" means the reciprocal arrangements on family benefits made in 1948 by the Minister of Social Security in New Zealand with the Minister of National Insurance in Great Britain and the Ministry of Labour and National Insurance for Northern Ireland;

(*q*) "sickness benefit" and "unemployment benefit", in relation to one (or the other) country, have the same meaning as in the legislation of that country;

(*r*) "United Kingdom" means England, Scotland, Wales, Northern Ireland and the Isle of Man:

(*s*) "widow's benefit", in relation to the United Kingdom, means a widow's allowance, widowed mother's allowance or widow's pension, payable under the legislation of that country or a widow's basic pension so payable to a woman who became a widow before 5 July 1948 and, in relation to New Zealand, has the same meaning as in the legislation of that country, and includes a mother's allowance payable under that legislation;

(*t*) "widow's pension" means widow's pension payable under the legislation of the United Kingdom other than a widow's basic pension.

ARTICLE 2

Legislation

(1) The provisions of this Agreement shall apply—

(*a*) in relation to the United Kingdom—

(i) to the National Insurance Act 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Act 1948 and any enactments repealed or consolidated by, or repealed by enactments consolidated by, those Acts; and

(ii) to the Family Allowances Act 1965, the Family Allowances Act (Northern Ireland) 1966 and the Family Allowances (Isle of Man) Act 1946; and

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

(2) Subject to the provisions of paragraph (3) of this Article, the Agreement shall apply also to any law, order or regulation which carries into effect, 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 which one (or the other) Party has made with the government of a third country.

PART II.—BENEFIT FOR OLD AGE

United Kingdom Retirement Pensions by virtue of residence in New Zealand

ARTICLE 3

(1) Where a person who is in the United Kingdom or resident there claims a retirement pension, the provisions of the following paragraphs of this Article shall apply for the purpose of his claim.

(2) The claimant shall be treated as if he, or, in the case of a claim made by a married woman or widow by virtue of her husband's insurance, her husband, had paid contributions under the legislation of the United Kingdom for any period during which he was resident in New Zealand and for any other period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other.

(3) Where the claimant is a married woman claiming by virtue of her own insurance, the provisions of paragraph (2) of this Article shall not apply to her in respect of any period during which she was a married woman unless—

(*a*) at the time when she was last in New Zealand, she was qualified to receive age benefit or superannuation benefit otherwise than by virtue of this Agreement or the former Agreement and was, or could have been, treated as an unmarried woman for the purpose of that benefit; or

(*b*) she has paid one hundred and fifty-six contributions under the legislation of the United Kingdom (other than contributions which would not be taken into account for the purpose of any claim to receive benefit under that legislation) for any period after her marriage and before the time when she reached pension age.

(4) Where the claimant is a woman claiming by virtue of her own insurance, her marriage having been terminated by the death of her husband or otherwise, and her husband's contributions are taken into account for the purpose of her claim, she shall be treated as if he had paid contributions under the legislation of the United Kingdom for any period during which he was resident in New Zealand and for any other period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other.

(5) Where the claimant is a woman who—

(*a*) would have been qualified to receive widow's benefit (other than a widow's basic pension) for any period, by virtue of Article 8 of this Agreement, if this Agreement had been in force during that period; or

(*b*) would have been entitled, under the arrangements made for crediting contributions to widows who claim retirement pensions under the legislation of the United Kingdom, to have contributions credited to her for any period, if this Agreement had been in force during that period;

she shall be treated as if contributions had been credited to her for that period.

(6) Where the claimant was receiving age benefit or superannuation benefit (otherwise than by virtue of this Agreement or the former Agreement) at the time when he was last in New Zealand and was over pension age at that time, he shall be treated as if he satisfied the contribution conditions for a retirement pension at the full standard rate. Provided that, if the claimant is a married woman who does not satisfy either of the conditions specified in paragraph (3) of this Article, she shall be treated as if her husband and not she satisfied the said contribution conditions.

(7) This Article shall have effect subject to the provisions of Article 26.

ARTICLE 4

For the purpose of any claim to receive a retirement pension, a person who is in the United Kingdom or resident there shall be deemed to have retired from regular employment on the date when he reaches pension age if, within four months before that date or at any time thereafter, he has received age benefit or superannuation benefit.