1969. No. 143 **[NC]**

FAMILY ALLOWANCES, NATIONAL INSURANCE AND INDUSTRIAL INJURIES

Switzerland

ORDER IN COUNCIL, DATED 30TH MAY 1969, 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.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

GREY OF NAUNTON

WHEREAS at Berne on 21st February 1968, a Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council (which Convention is set out in the Schedule and is hereinafter referred to as "the Convention") was signed on behalf of the said Government and Council:

AND WHEREAS by Article 26 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 said instruments of ratification were exchanged on 19th February 1969 and, accordingly, the Convention entered into force on 1st April 1969:

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:

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 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 and commencement

1. This Order may be cited as the Family Allowances, National Insurance and Industrial Injuries (Switzerland) Order (Northern Ireland) 1969 and shall come into operation with effect from 1st April 1969.

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

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 by way of agreement with the Swiss Federal Council for reciprocity with the said Council 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 the Family Allowances Acts (Northern Ireland) 1966 and 1968, the National Insurance Acts (Northern Ireland) 1966 to 1968 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1968, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

Revocation of Orders

3. The National Insurance and Industrial Injuries (Reciprocal Agreement with Switzerland) Order (Northern Ireland) 1954(**d**) and the National Insurance (Reciprocal Agreement with Switzerland) Order (Northern Ireland) 1960(**e**) are hereby revoked.

Given at Government House, Hillsborough, this 30th day of May 1969.

H. V. Kirk

W. K. Fitzsimmons

W. J. Long

(d) S.R. & O. (N.I.) 1954, No. 85. (e) S.R. & O. (N.I.) 1960, No. 152.

SCHEDULE

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council,

HAVING established reciprocal arrangements in the field of social security by means of the Conventions which were signed on their behalf at Berne on the 16th January 1953 and the 12th November 1959, respectively,

DESIRING to widen the scope of those arrangements and, in particular, to give more complete effect to the principle that nationals of the two Contracting Parties should receive equal treatment under the social insurance legislation of each Party,

HAVE AGREED as follows:—

PART I

Definitions and Legislation

ARTICLE 1

For the purpose of the present Convention—

(*a*) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland, the Isle of Man, Jersey, Guernsey, Alderney, Herm and Jethou, and, in relation to Switzerland, the territory of the Swiss Confederation;

(*b*) "national" means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, and, in relation to Switzerland, a person having Swiss nationality;

(*c*) "legislation" means, according to the context, the laws and regulations of one or the other Contracting Party which are mentioned in Article 2 of the Convention;

(*d*) "Swiss pensions insurance" means Swiss legislation on old age and survivors' insurance and invalidity insurance;

(*e*) "Swiss accident insurance" means Swiss legislation on accident insurance;

(*f*) "competent authority" means, in relation to the United Kingdom, the Minister of Social Security, 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 Insurance Authority of Guernsey, as the case may require, and, in relation to Switzerland, the Federal Office of Social Insurance;

(*g*) "social insurance authority" means, in relation to the United Kingdom, the competent authority of the United Kingdom, and, in relation to Switzerland, the appropriate compensation fund for old age and survivors' insurance or the Swiss National Institute for Accident Insurance, as the case may require;

(*h*) "Swiss sickness insurance fund" means an institute approved by the Swiss competent authority under the Federal Sickness and Accidents Insurance Act of the 13th June 1911;

(*i*) "the former Conventions" means the Convention on Social Insurance and the Supplementary Convention on Social Insurance which were signed on behalf of the Contracting Parties at Berne on the 16th January 1953 and the 12th November 1959, respectively;

(*j*) "employed person" means a person who comes within the definition of an employed person or a person who is treated as an employed person in the legislation which is being applied; "employment" means employment as an employed person, and the words "employ" and "employer" refer to such employment;

(*k*) "contribution period" means, in relation to the United Kingdom, a period for which contributions appropriate to the benefit in question have been paid under the legislation of the United Kingdom, and, in relation to Switzerland, a period during which contributions have been paid under Swiss pensions insurance or a period which is treated as such a period under that insurance;

(*l*) "equivalent period" means a period for which contributions appropriate to the benefit in question have been credited under the legislation of the United Kingdom;

(*m*) "benefit" and "pension" mean, according to the context, any benefit or pension provided under the legislation of one or the other Party, other than a family allowance, and include any increase in the benefit or pension and any additional allowances payable therewith under that legislation;

(*n*) "period of interruption of employment" has the meaning assigned to it in the legislation of the United Kingdom;

(*o*) other words and expressions have the meanings respectively assigned to them in the legislation of the United Kingdom or Switzerland, as the case may require.

ARTICLE 2

(1) The present 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 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;

(iv) the Social Insurance (Guernsey) Law 1964 and the legislation repealed by that Law;

(v) the Family Allowances Act 1965, the Family Allowances Act (Northern Ireland) 1966, the Family Allowances (Isle of Man) Act 1945, the Family Allowances (Guernsey) Law 1950, and the Family Allowances (Jersey) Law 1951.

(*b*) in relation to Switzerland to—

(i) the Federal Old Age and Survivors' Insurance Act of the 20th December 1946;

(ii) the Federal Invalidity Insurance Act of the 19th June 1959;

(iii) the Federal Act on Family Allowances for Agricultural Workers and Small Farmers of the 20th June 1952;

(iv) the Federal Sickness and Accidents Insurance Act of the 13th June 1911;

provided that none of the Articles of Parts II, III and IV of the Convention, except Article 11, shall apply to Part I of the last-mentioned Act (which Part concerns sickness insurance).

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

(3) The Convention shall apply, only if the Contracting Parties so decide, to laws and regulations which amend the legislation specified in paragraph (1) of this Article for the purpose of giving effect to a reciprocal agreement on social security with a third Party.

PART II

Provisions concerning Equality of Treatment

ARTICLE 3

(1) Subject to the provisions of the present Convention, a national of one Contracting Party shall be entitled to enjoy the advantages, and shall be subject to the obligations, of the legislation of the other Party, under the same conditions as a national of the latter Party.

(2) Where a person, not being a national of either Party, has claimed, by virtue of the contributions of a national of either Party or in respect of the death of a national of either Party, any benefit under the legislation of either Party, other than a special pension under Swiss pensions insurance, any provision of the Convention which applies to nationals of either Party shall apply also to him in relation to his claim.

(3) Paragraph (1) of this Article shall not apply to those provisions of Swiss legislation which concern emergency allowances for Swiss invalids resident abroad, the Swiss pensions insurance of Swiss nationals working abroad in the service of employers in Switzerland, or the voluntary Swiss pensions insurance of Swiss nationals resident abroad.

ARTICLE 4

No provision of any of the Articles 3, 9, 11 and 16 of the present Convention shall be construed as affecting any provision of the legislation of either Contracting Party which is more favourable to the person concerned.

PART III

Provisions concerning Contributions

ARTICLE 5

(1) Subject to the provisions of paragraphs (3), (5) and (6) of this Article and of Articles 6 and 7 of the present Convention, where a national of either Contracting Party is gainfully occupied in the territory of one Party, either as an employed person or otherwise, the legislation of that Party shall apply to him, and, for the purpose of calculating any contributions payable under that legislation, no account shall be taken of any income he may receive from a gainful occupation in the territory of the other Party.

(2) Where a national of one Party is ordinarily resident in the territory of the other Party and not gainfully occupied in the territory of either Party, the legislation of the latter Party shall apply to him.

(3) Where a person, in the service of an employer having a place of business in the territory of one Party, is sent by that employer to the territory of the other Party immediately after a contribution period or equivalent period under the legislation of the former 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; and no contributions shall be payable in respect of his employment under the legislation of the latter Party.

(4) Where a national of Switzerland is employed as a member of the crew of a British ship or vessel which is registered in the United Kingdom or of which