EXPLANATORY NOTE

(This note is not part of the Order but is intended to indicate its general purport.)

The object of this Order is to extend to the 1st January, 1964, the date before which plans for the provision of houses and the reconditioning of premises as houses on farms must be submitted to the Ministry of Health and Local Government for approval in order to qualify for grant.

The Order also prescribes the rates of grant payable in respect of new farmhouses, approved workers' houses, and reconditioning works, and prescribes the dates before which work must be completed in order to qualify for the rates of grant specified.

1962. No. 218 **[NC]**

FAMILY ALLOWANCES AND NATIONAL INSURANCE

Reciprocal Agreement with Australia

ORDER IN COUNCIL, DATED 26TH NOVEMBER, 1962, MADE UNDER SECTION SIXTY-ONE OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

WAKEHURST

Whereas at Canberra on 29th January, 1958, an Agreement (which Agreement is set out in the First Schedule and is hereinafter referred to as "the Principal Agreement") between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Commonwealth of Australia on social security was signed on behalf of those Governments, and entered into force on 1st April, 1958:

And whereas at Canberra on 16th August, 1962, an Agreement between the aforementioned Governments (which Agreement is set out in the Second Schedule), modifying and extending the Principal Agreement, was signed on behalf of those Governments:

And whereas by Article 18 of the said Agreement it is provided that that Agreement shall enter into force on 1st October, 1962, and shall be read and construed as one with the Principal Agreement:

And whereas by section 61 of the National Insurance Act (Northern Ireland), 1946(**a**), as extended by section 5 of the Family Allowances and National Insurance Act (Northern Ireland), 1956(**b**), and by section 3 of the Family Allowances and National Insurance Act (Northern Ireland), 1959(**c**), it is provided that the Governor of Northern Ireland may by Order in Council make provision for modifying or adapting the said Act of 1946 and the Family Allowances Act (Northern Ireland), 1945(**d**) in their application to cases affected by agreements with other governments providing for reciprocity in the matters specified in sub-section (1) of the said section 61 as so extended:

(**a**) 1946. c. 23. (**b**) 1956. c. 8. (**c**) 1959. c. 7. (**d**) 1945. c. 19.

Now, therefore, I, John de Vere, Baron Wakehurst, Knight of the Most Noble Order of the Garter, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor of Northern Ireland, in pursuance of the said section 61 of the National Insurance Act (Northern Ireland), 1946, 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 and commencement

1. This Order may be cited as the Family Allowances and National Insurance (Reciprocal Agreement with Australia) Order (Northern Ireland), 1962, and shall come into operation with effect from 1st October, 1962.

Modification of Acts

2. The provisions contained in the Agreements set out in the Schedules shall have full force and effect so far as they relate to Northern Ireland and accordingly—

(*a*) the National Insurance Acts (Northern Ireland), 1946 to 1962 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to the provisions of the Principal Agreement set out in the First Schedule which apply to those Acts; and

(*b*) the National Insurance Acts (Northern Ireland), 1946 to 1962 and the Family Allowances Acts (Northern Ireland), 1945 to 1962 shall have effect subject to the like modifications for the purpose of giving effect to the provisions of the said Principal Agreement as modified and extended by the provisions of the Agreement set out in the Second Schedule.

Revocation

3. The National Insurance (Reciprocal Agreement with Australia) Order (Northern Ireland), 1958(**a**), is hereby revoked.

Given at Government House, Hillsborough, this twenty-sixth day of November, one thousand nine hundred and sixty-two.

Brian Faulkner
H. V. Kirk
J. L. O. Andrews
Brian Maginess

FIRST SCHEDULE

Agreement on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Commonwealth of Australia

Canberra, 29th January, 1958

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Commonwealth of Australia,

Being resolved to co-operate in the social field,

Desiring to make arrangements enabling persons who go from one country

(**a**) S.R. & O. (N.I.) 1958, No. 60.

to the other to receive social security benefits for age, widowhood, invalidity, sickness, unemployment and family responsibilities, as far as possible at the same rates and under the same conditions as persons who have been resident in the latter country,

Have agreed as follows:

Part I.—Definitions and General Provisions

ARTICLE 1

Definitions

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

(*a*) "age pension", "invalid pension", "wife's allowance" and "child's allowance" have the same meaning as in the legislation of Australia;

(*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 Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland or the Isle of Man Board of Social Services, as the case may require, and, in relation to Australia, the Director-General of Social Services;

(*e*) "country" means, according to the context, the United Kingdom or Australia;

(*f*) "family benefit" means, in relation to the United Kingdom, a family allowance payable under the legislation of the United Kingdom, and, in relation to Australia, child endowment payable under the legislation of Australia;

(*g*) "former Agreement" means the Agreement on Social Security signed in London on the 8th June, 1953, on behalf of the Contracting Parties;

(*h*) "full standard rate" means, in relation to any benefit payable under the legislation of the United Kingdom, the rate at which the beneficiary would be qualified to receive that benefit if the relevant contribution conditions were fully satisfied;

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

(*j*) "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;

(*k*) "means test" means any provision of the legislation of Australia which affects the payment or rate of a benefit on account of income or property;

(*l*) "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;

(*m*) "qualified to receive" means, in relation to the United Kingdom, entitled to receive subject to any disqualification or any provision about giving notice, claiming, earnings, hospital treatment or overlapping benefits which may be appropriate and, in relation to Australia, qualified to receive after taking into account any means test which may be appropriate;

(*n*) "retirement pension" has the same meaning as in the legislation of the United Kingdom and includes a contributory old age pension payable under that legislation;

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

(*p*) "widow's benefit" means, in relation to the United Kingdom, 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 the 5th July, 1948;

(*q*) "widow's pension", in relation to the United Kingdom, means a widow's pension payable under the legislation of the United Kingdom other than a widow's basic pension, and, in relation to Australia, has the same meaning as in the legislation of Australia.

ARTICLE 2

Legislation

(1) The provisions of this Agreement shall apply—

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

(i) to the National Insurance Act, 1946, the National Insurance Act (Northern Ireland), 1946, the National Insurance (Isle of Man) Act, 1948, and the legislation in force before the 5th July, 1948, which was replaced by those Acts; and

(ii) to the Family Allowances Act, 1945, and the Family Allowances (Isle of Man) Act, 1946; and

(*b*) in relation to Australia, to the *Social Services Act* 1947-1957.

(2) Subject to the provisions of paragraph (4) of this Article, this Agreement shall apply also to laws, orders and regulations which carry into effect, amend, supplement or consolidate the legislation specified in paragraph (1) of this Article.

(3) This Agreement shall apply to laws, orders and regulations which amend or supplement the legislation specified in paragraph (1) or (2) of this Article for the purpose of giving effect to it or to any agreement on social security which any two of the competent authorities of the United Kingdom have made with one another.

(4) Subject to the provisions of paragraph (2) of Article 32, this Agreement shall apply, only if the Contracting Parties so agree, to laws, orders and regulations which amend or supplement the legislation specified in paragraph (1) or (2) of this Article for the purpose of giving effect to any other reciprocal agreement on social security which one (or the other) Party has made with the Government of a third country or which any of the competent authorities of the United Kingdom has made with the authority administering any scheme of social security in a third country.

Part II.—Retirement Pensions and Age Pensions

ARTICLE 3

United Kingdom retirement pensions by virtue of residence in Australia

(1) For the purposes of any claim to receive a retirement pension, a person who is permanently resident in the United Kingdom shall be treated as if he, or, in the case of a claim made by a married woman or a 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 Australia, and for any period during which he was proceeding from either country to the other, if he arrived in the latter country within thirteen weeks after leaving the former country.

(2) Where the person claiming a retirement pension is a married woman claiming by virtue of her own insurance, the provisions of paragraph (1) of this Article shall not apply to her unless—

(*a*) 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 purposes of any claim to receive a benefit under that legislation) for any period after the date of her marriage and before the date when she reaches pension age; or

(*b*) at the time when she was last in Australia, she was being treated as a widow

for the purposes of her right to receive a widow's pension under the legislation of Australia, or would have been so treated but for her earnings.

(3) Where the person claiming a retirement pension is a widow claiming by virtue of her own insurance and she has chosen to have her husband's contributions taken into account, the provisions of paragraph (1) shall apply both to her husband and to herself.

(4) Where a person who is permanently resident in the United Kingdom was receiving an age pension, otherwise than by virtue of this Agreement or the former Agreement, at the time when he was last in Australia, and was over pension age at that time, he shall, if he is not qualified by virtue of paragraphs (1), (2) and (3) of this Article to receive a retirement pension at the full standard rate, be treated as if he satisfied the contribution conditions for such a pension: Provided that a married woman who does not satisfy either of the conditions specified in paragraph (2) of this Article shall be treated for the purposes of this paragraph as if her husband and not she satisfied the said contribution conditions.

(5) Subject to the provisions of Article 21, any pension which is awarded by virtue of this Article shall cease to be payable if the pensioner ceases to be permanently resident in the United Kingdom.

ARTICLE 4

Australian age pensioner deemed to have retired

For the purposes of any claim to receive a retirement pension, a person shall be deemed to have retired from regular employment if, at any time within the four months before his arrival in the United Kingdom, he was receiving an age pension.

ARTICLE 5

United Kingdom contributions payable after pension age

For the purposes of those provisions of the legislation of the United Kingdom which concern the payment of contributions for any period after the insured person has reached pension age and the increase of the weekly rate of retirement pension by virtue of those contributions, a person who was resident in Australia for any period shall be treated as if he had become an insured person at the beginning of that period.

ARTICLE 6

Restoration of retirement pension rights

A person who at any time before the 7th January, 1954, chose not to qualify for a retirement pension but to have a refund of part of the contributions which he had paid under the legislation of the United Kingdom may, if he was resident in Australia for any period before or after that time, cancel that choice by giving notice to the competent authority of the United Kingdom and repaying the sum which he received by way of refund of contributions.

ARTICLE 7

United Kingdom retirement pensions in Australia

(1) Where a person would be qualified to receive a retirement pension, otherwise than by virtue of this Agreement or the former Agreement, if he were in the United Kingdom, he shall be qualified to receive that pension while he is in Australia.

(2) This Article shall have effect subject to the provisions of Article 24.

ARTICLE 8

Australian age pensions by virtue of residence in the United Kingdom

(1) For the purposes of any claim to receive an age pension, a person who is permanently resident in Australia shall be treated as if he had been resident there during any period—