1961. No. 149 [NC]

NATIONAL INSURANCE AND INDUSTRIAL INJURIES

Reciprocal Agreement with Turkey

ORDER IN COUNCIL, DATED 27TH JUNE, 1961, MADE UNDER SECTION SIXTY-ONE OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946, AND SECTION EIGHTY-FOUR OF THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND), 1946.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

WAKEHURST

Whereas at Ankara on the ninth day of September, 1959, a Convention on social insurance between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Turkey (which Convention is set out in the Schedule and is hereinafter referred to as "the Convention") was signed on behalf of those Governments:

And whereas by Article 39 of the Convention it was provided that the Convention should enter into force on the first day of the third month following the month in which the instruments of ratification had been exchanged:

And whereas the Convention has been ratified by the Governments of the United Kingdom of Great Britain and Northern Ireland and of the Republic of Turkey and the instruments of ratification were exchanged on the third day of March, 1961, and accordingly the Convention entered into force on the first day of June, 1961:

And whereas by section sixty-one of the National Insurance Act (Northern Ireland), 1946(**a**), and section eighty-four of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946(**b**), it is provided that the Governor of Northern Ireland may by Order in Council make provision for modifying or adapting those Acts in their application to cases affected by agreements with other governments providing for reciprocity in the matters specified in those sections:

Now, therefore, I, John de Vere, Baron Wakehurst, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor of Northern Ireland, in pursuance of the said section sixty-one of the National Insurance Act (Northern Ireland), 1946, and the said section eighty-four of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, 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:

1. This Order may be cited as the National Insurance and Industrial Injuries (Reciprocal Agreement with Turkey) Order (Northern Ireland), 1961, and shall come into operation with effect from 1st June, 1961.

2. The provisions contained in the Convention shall have full force and effect, so far as the same relate to Northern Ireland and provide by way of agreement with the Government of the Republic of Turkey for reciprocity

(**a**) 1946. c. 23. (**b**) 1946. c. 21.

in any matters specified in either sub-section (1) of section sixty-one of the National Insurance Act (Northern Ireland), 1946 or sub-section (1) of section eighty-four of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and accordingly the National Insurance Acts (Northern Ireland), 1946 to 1960 and the National Insurance (Industrial Injuries) Acts (Northern Ireland), 1946 to 1960 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to the said provisions.

Given at Government House, Hillsborough, this twenty-seventh day of June, one thousand nine hundred and sixty-one.

Terence O'Neill

Brian Faulkner

Ivan Neill

J. L. O. Andrews

SCHEDULE

CONVENTION ON SOCIAL INSURANCE BETWEEN THE UNITED KINGDOM AND THE REPUBLIC OF TURKEY

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Turkey,

Being resolved to co-operate in the social field,

Affirming the principle that the nationals of one Contracting Party should receive under the social insurance legislation of the other equal treatment with the nationals of the latter,

Desirous of giving effect to this principle and of making arrangements enabling their nationals who go from the territory of one Party to the territory of the other either to keep the rights which they have acquired under the legislation of the former Party or to enjoy corresponding rights under the legislation of the latter,

Desirous further of making arrangements for insurance periods completed under the legislation of the two Parties to be added together for the purpose of determining the right to receive benefit,

Have agreed as follows:—

PART I

Definitions and Scope

ARTICLE 1

For the purpose of the present Convention, unless the context otherwise requires—

(1) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland and the Isle of Man, and, in relation to Turkey, its national territory;

(2) "national" means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, and, in relation to Turkey, a person having Turkish nationality;

(3) "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) Contracting Party;

(4) "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, and the Isle of Man Board of Social Services as the case may require, and, in relation to Turkey, the Ministry of Labour;

(5) "social insurance 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 Turkey, the Workers' Insurance Institution;

(6) "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;

(7) "dependant" means, in relation to the United Kingdom, a person who would be treated as such for the purpose of any claim to receive an additional allowance under the legislation of the United Kingdom, and, in relation to Turkey, a person who comes within the definition of a dependant in the legislation of Turkey;

(8) "insurance period" means, in relation to one (or the other) Party, a period during which a person is insured under the legislation of that Party;

(9) "contribution period" means, in relation to one (or the other) Party, an insurance period in respect of which contributions, appropriate to the benefit in question, have been paid under the legislation of that Party;

(10) "equivalent period" means, in relation to the United Kingdom, an insurance period in respect of which contributions, appropriate to the benefit in question, have been credited under the legislation of the United Kingdom, and, in relation to Turkey, an insurance period during which the insured person was incapable of work;

(11) the words "benefit" and "pension" include any increase in the benefit or pension and any additional allowances payable therewith;

(12) "sickness benefit" means, in relation to the United Kingdom, sickness benefit as defined in the legislation of the United Kingdom, other than invalidity pension, and, in relation to Turkey, sickness benefit as defined in the legislation of Turkey;

(13) "invalidity pension" means, in relation to the United Kingdom, sickness benefit as defined in the legislation of the United Kingdom which becomes payable to a person in respect of a period of interruption of employment as defined in that legislation after the lapse in that period of three hundred and twelve days for each of which he has been entitled to receive either sickness benefit under the legislation of one (or the other) Party; or an invalidity pension under the legislation of Turkey, and, in relation to Turkey, an invalidity pension as defined in the legislation of Turkey;

(14) "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, as defined in the legislation of the United Kingdom, and, in relation to Turkey, any benefit paid under the legislation of Turkey concerning survivors' insurance to a widow or the child of a widow;

(15) "orphan's benefit" means, in relation to the United Kingdom, guardian's allowance as defined in the legislation of the United Kingdom, and, in relation to Turkey, any benefit paid under the legislation of Turkey concerning survivors' insurance to a child whose father and mother are dead;

(16) "old age pension" means, in relation to the United Kingdom, an old age pension or retirement pension as defined in the legislation of the United

Kingdom, and, in relation to Turkey, an old age pension as defined in the legislation of Turkey;

(17) "death benefit" means, in relation to the United Kingdom, a death grant as defined in the legislation of the United Kingdom, and, in relation to Turkey, benefit granted under the legislation of Turkey for funeral expenses.

ARTICLE 2

(1) The provisions of the present Convention shall apply—

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

(i) 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;

(ii) the National Insurance (Industrial Injuries) Act, 1946, the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and the National Insurance (Industrial Injuries) (Isle of Man) Act, 1948;

(*b*) in relation to Turkey, to—

(i) the Industrial Injuries, Industrial Diseases and Maternity Insurances Act (No. 4772);

(ii) the Sickness and Maternity Insurance Act (No. 5502); and

(iii) the Invalidity, Old Age and Survivors' Insurances Act (No. 6900).

(2) Subject to the provisions of paragraphs (3) and (4) of this Article, the Convention shall apply also to any legislation which amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) The Convention shall not apply to any legislation which relates to a new branch of social insurance, if either Contracting Party so decides and gives notice to the other to that effect within three months of the official communication of the said legislation in accordance with Article 30 of the Convention.

(4) The Convention shall apply, only if the Parties so decide, to any legislation which amends or supplements the legislation specified in paragraph (1) of this Article for the purpose of giving effect to a reciprocal agreement on social security which one (or the other) Party has made with a third Party.

PART II

General Provisions

ARTICLE 3

A national of one Contracting Party shall be entitled to receive the benefits of the legislation of the other Party under the same conditions as if he were a national of the latter Party.

ARTICLE 4

(1) Subject to the provisions of paragraphs (2), (3) and (4) of this Article, where a national of either Contracting Party is employed in the territory of one Party, the legislation of that Party shall apply to him, even if he is ordinarily resident in the territory of the other Party, and even if his employer or the principal place of business of the undertaking which employs him is in the latter territory.

(2) If a person, in the service of an employer whose principal place of business is in the territory of one Party, is sent in the course of his employment to work temporarily in the territory of the other Party, and is not a national of the latter Party nor ordinarily resident in its territory, then the legislation of the former Party shall apply to him as if he were employed in the territory of that Party, and the legislation of the latter Party shall not apply to him.

(3) If a national of the United Kingdom who is ordinarily resident in the territory of the United Kingdom is employed in the territory of Turkey, and the provisions of paragraph (2) of this Article do not apply to him, the legislation of Turkey concerning invalidity, old age and survivors' insurance shall not apply to him unless he so chooses and gives notice to that effect to the social insurance authority of Turkey. He shall also be entitled to choose that the legislation of the United Kingdom shall apply to him, and, if he so chooses, that legislation shall apply to him as if he were an insured person entitled to pay voluntary contributions from abroad.

(4) None of the provisions of this Article shall apply to any person to whom any of the provisions of Articles 5 and 6 of the present Convention apply.

ARTICLE 5

(1) For the purpose of this Article, "vessel or aircraft of one (or the other) Party" means, according to the context—

(*a*) a vessel registered in the territory of the United Kingdom, or any other British vessel of which the owner (or managing owner, if there is more than one owner) or manager resides or 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) resides or has his principal place of business in that territory, or

(*b*) a vessel which is within the scope of the Turkish legislation concerning employment at sea or an aircraft registered in the territory of Turkey.

(2) Subject to the provisions of paragraph (3) of this Article, where a national of either Contracting Party, ordinarily resident in the territory of one Party, is employed on board any vessel or aircraft of the other Party, the legislation of the latter Party shall apply to him as if any conditions relating to nationality, residence or domicile were satisfied in his case.

(3) Where a national of either Party, ordinarily resident in the territory of one Party and employed on board any vessel of the other Party, is paid remuneration in respect of that employment by some person or undertaking having a place of business in the territory of the former Party and not the owner of the vessel, the legislation of the former Party shall, in respect of that employment, apply to the national as if the vessel were a vessel of the former Party, and the person or undertaking paying said remuneration shall be treated as the employer for the purposes of such legislation.

ARTICLE 6

(1) The present Convention shall not apply to established members of the Foreign Service of either Contracting Party.

(2) Subject to the provisions of paragraph (1) of this Article, where a national of one Party, who is in the Government service of that Party, is employed in the territory of the other Party and was compulsorily insured under the legislation of the former Party immediately before that employment in the territory of the latter Party began, that legislation shall apply to him as if he were employed in the territory of the former Party.

(3) Where a national of either Party, to whom the provisions of paragraphs (1) and (2) of this Article do not apply, is employed in a diplomatic or consular post of one Party in the territory of the other Party, he shall be entitled to choose that the legislation of the Party of which he is a national shall apply to him, and, if he so chooses and is a national of the former Party, the legislation of that Party shall apply to him as if he were employed in the territory of that Party.

ARTICLE 7

Where a person is employed in the territory of one Contracting Party and the legislation of the other Party applies to him in accordance with the provisions