Reciprocal Agreement with Malta

ORDER IN COUNCIL, DATED 10TH JULY, 1958, 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.

1958. No. 118 [NC]

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

WAKEHURST

Whereas at Valletta on the twenty-first day of March, 1958, an Agreement on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Malta (which Agreement is set out in the Schedule) was signed on behalf of those Governments:

And whereas by Article 8 of the said Agreement it was provided that the Agreement should enter into force on the twenty-first day of April, 1958:

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 Malta) Order (Northern Ireland), 1958, and shall come into operation with effect from the twenty-first day of April, 1958.

2. The provisions contained in the Agreement set out in the Schedule shall have full force and effect, so far as the same relate to Northern Ireland, and the National Insurance Acts (Northern Ireland), 1946 to 1957(c), and the National Insurance (Industrial

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

(c) 1946. c.23; 1949. c.20; 1951. c.18; 1952. c.14; 1953. c.27; 1955. c.1; 1955. c.10; 1956. c.8; 1957. c.7; 1957. c.26.

Injuries) Acts (Northern Ireland), 1946 to 1957(a), 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 tenth day of July, one thousand nine hundred and fifty-eight.

Terence O'Neill
Ivan Neill
W. M. May
Alex. R. G. Gordon

SCHEDULE

Agreement on National Insurance between the Government of the United Kingdom and the Maltese Government

Article 1

For the purpose of this Agreement, the expression "the Principal Agreement" means the Agreement on National Insurance between the Government of the United Kingdom and the Maltese Government, which was signed at Valletta on behalf of those Governments on the 26th October, 1956, and is set out as a Schedule to the National Insurance and Industrial Injuries (Malta) Order, 1956(b) and as a Schedule to the National Insurance (Reciprocal Agreement with the United Kingdom) Order, 1956(c).

Article 2

Article 3 of the Principal Agreement shall be omitted, and in its place there shall be substituted the following Article:—

"*Article* 3

(1) If a person is temporarily employed in one territory in the service of an employer who—

(i) is ordinarily resident in the other territory; or

(ii) has his principal place of business in that other territory; or

(iii) has in that other territory a place of business in which the employed person is normally employed or to which the employed person is normally attached;

and the employed person is not ordinarily resident in the former territory, then, in relation to that employment—

(*a*) those provisions of the legislation of the latter territory which concern the payment of contributions shall apply

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(a) 1946. c.21; 1948. c.20; 1951. c.18; 1952. c.14; 1953. c.30; 1955. c.1; 1956. c.8; 1957. c.7; 1957. c.26.

(b) S.I. 1956/1897 (1956 I, p. 1663).

(c) Government Notice No. 652, published in the Malta Government Gazette on the 27th October, 1956.

to him during the first twelve months of that employment as if he were employed in the latter territory;

(*b*) the legislation of the former territory shall not apply to him during that period.

(2) The provisions of paragraph (1) of this Article shall not apply to any person who is employed in the government service of either territory.

(3) The provisions of paragraph (1) shall apply to an employed person in relation to the employment specified in that paragraph even if an employer in the territory where he is temporarily employed is paying him wages in respect of the same employment.

(4) The provisions of sub-paragraphs (*a*) and (*b*) of paragraph (1) shall apply to an employed person in relation also to any other employment which he may undertake in the territory where he is temporarily employed during the period of twelve months specified in that paragraph.

(5) Where the employment specified in paragraph (1) lasts longer than twelve months, the provisions of paragraphs (1), (3) and (4) shall continue to apply to the employed person if the competent authority of the territory where he is employed agrees thereto before the end of the period of twelve months specified in paragraph (1)."

Article 3

Article 4 of the Principal Agreement shall be omitted, and in its place there shall be substituted the following Article:—

"*Article* 4

(1) If a person is employed in one territory—

(i) in the government service of the other territory, having been engaged for that employment outside the former territory, and is not ordinarily resident in the former territory; or

(ii) in the government service of that territory, having been sent to that territory temporarily in the course of employment in the same government service in the other territory, and is insured in relation to that employment in the latter territory under the legislation of that territory;

then, in relation to the employment in the former territory—

(*a*) those provisions of the legislation of the latter territory which concern the payment of contributions shall apply to him as if he were employed in that territory;

(*b*) the legislation of the former territory shall not apply to him.

(2) The provisions of sub-paragraphs (*a*) and (*b*) of paragraph (1) of this Article shall apply to an employed person in relation also to any other employment which he may undertake in the former territory.

(3) The provisions of paragraph (1) shall not apply to any apprentice in the service of the Admiralty in Malta who is sent to the United Kingdom under the Equal Opportunities Scheme."

Article 4

Article 5 of the Principal Agreement shall be omitted, and in its place there shall be substituted the following Article:—

"*Article* 5

None of the provisions of Articles 3, 4 and 6 of this Agreement shall affect the insurance of any person in relation to his service or training in any of the naval, military or air forces or reserve forces of the Crown."

Article 5

Article 6 of the Principal Agreement shall be omitted, and in its place there shall be substituted the following Article:—

"*Article* 6

(1) For the purpose of this Article, "ship" means, in relation to one territory, a ship or vessel which is registered in that territory and is not owned in the other territory or any other British ship or vessel which is owned in the former territory; and a ship or vessel shall be deemed to be owned—

(*a*) in the United Kingdom if it belongs to Her Majesty;

(*b*) in one (or the other) territory, if it does not belong to Her Majesty and the owner or, where there is more than one owner, the managing owner or the manager resides or has his principal place of business in that territory.

(2) Subject to the provisions of paragraphs (3) and (5) of this Article, if a person, ordinarily resident in one territory, is employed on board a ship of the other territory, the legislation of the latter territory shall apply to him as if he were ordinarily resident in the latter territory, and the legislation of the former territory shall not apply to his employment.

(3) If a person, ordinarily resident in one territory, is employed as master or a member of the crew of a ship of the other territory which—

(*a*) is registered in the former territory;

(*b*) is based in the former territory;

(*c*) is engaged in the home trade of the former territory; or

(*d*) is manned wholly or mainly by persons who are ordinarily resident in the former territory;

then, the legislation of the former territory shall apply to him as if he were employed as master or a member of the crew of a ship of the former territory, and the legislation of the latter territory shall not apply to his employment.

(4) For the purpose of applying the provisions of paragraph (3) of this Article, a ship shall be treated as being engaged in the home trade of Malta if it is engaged in trading or going between Malta and any other Mediterranean port or ports or if it is a fishing vessel based in Malta.