EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport.)

These regulations apply to persons who (being over school-leaving age on the 5th July, 1948) enter into insurance at a time which, although more than three years before their attaining the age of sixty-five in the case of a man or sixty in the case of a woman, makes it impossible for them to satisfy the condition as to yearly average of contributions necessary to qualify for widow's benefit or retirement pension. The regulations apply to them the provisions governing the position of persons who enter into insurance within three years before attaining pensionable age, so that on attaining that age they cease to be liable to pay contributions and are entitled to a refund of that portion of each contribution they have paid which is attributable to widow's benefit and retirement pension.

Reciprocal Agreement with Australia

ORDER IN COUNCIL, DATED 28TH MARCH, 1958, MADE UNDER SECTION SIXTY-ONE OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946.

1958. No. 60 **[NC]**

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

WAKEHURST

WHEREAS at Canberra on the twenty-ninth day of January, 1958, an 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 whereas by Article 35 of the said Agreement it was provided that the Agreement should enter into force on the first day of April, 1958:

And whereas by section sixty-one of the National Insurance Act (Northern Ireland), 1946(a), it is provided that the Governor of Northern Ireland may by Order in Council make provision for modifying or adapting that Act in its 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 of all other powers enabling me in

(a) 1946. c. 23.

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 (Reciprocal Agreement with Australia) Order (Northern Ireland), 1958, and shall come into operation on the first day of April, 1958.

2. Those provisions of the aforesaid Agreement which are set out in the Schedule shall have full force and effect so far as the same relate to Northern Ireland, and accordingly the National Insurance 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.

3. The National Insurance (Reciprocal Agreement with Australia) Order (Northern Ireland), 1954(b), is hereby revoked.

Given at Government House, Hillsborough, this twenty-eighth day of March, one thousand nine hundred and fifty-eight.

Terence O'Neill
Ivan Neill
Robert Moore
W. M. May
Glentoran
J. L. O. Andrews
Alex. R. Gordon

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 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:

(a) 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.
(b) S.R. & O. (N.I.) 1954, No. 8.

PART I.—DEFINITIONS AND GENERAL PROVISIONS

DEFINITIONS

Article 1

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*) * * * * * * * *

(*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.

LEGISLATION

Article 2

(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) * * * * * * * *

(*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

United Kingdom Retirement Pensions by Virtue of Residence in Australia

Article 3

(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.