

1974. No. 153

[NC]

**FAMILY ALLOWANCES, NATIONAL INSURANCE AND
INDUSTRIAL INJURIES**

Gibraltar

ORDER, DATED 25TH JUNE 1974, 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.

WHEREAS by an exchange of Letters (which Letters are set out in the Schedule) between the Secretary of State for Foreign and Commonwealth Affairs and the Governor of Gibraltar an Agreement on social security was made between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Gibraltar:

AND WHEREAS it was provided in the Letters that the Agreement should enter into force forthwith:

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:

AND WHEREAS by paragraph 4 of Schedule 5 to the Northern Ireland Constitution Act 1973(d) it is provided that any reference to the Governor of Northern Ireland, as respects functions to be discharged by him, or to the Governor of Northern Ireland in Council shall be construed as a reference to the Secretary of State and that any reference to the making of an Order in Council by the Governor of Northern Ireland shall be construed as a reference to the making of an order by the Secretary of State:

NOW, THEREFORE, the Secretary of State, in exercise of the powers conferred upon him by the said section 99 as so extended, by the said section 79 and by paragraph 4 of Schedule 5 to the Northern Ireland Constitution Act 1973 and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation

1. This Order may be cited as the Family Allowances, National Insurance and Industrial Injuries (Gibraltar) Order (Northern Ireland) 1974.

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

(c) 1966. c. 9 (N.I.).
(d) 1973. c. 36.

Modification of Acts

2. The provisions contained in the Letters set out in the Schedule shall have full force and effect so far as they relate to Northern Ireland and provide for reciprocity 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 accordingly the Family Allowances Acts (Northern Ireland) 1966 to 1969, the National Insurance Acts (Northern Ireland) 1966 to 1973 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1973 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to those provisions.

Dated this 25th day of June, 1974.

Merlyn Rees,
One of Her Majesty's Principal
Secretaries of State.

SCHEDULE

Letters exchanged between the Secretary of State for Foreign and
Commonwealth Affairs and the Governor of Gibraltar

No. 1

THE SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS TO THE
GOVERNOR OF GIBRALTAR

12 December 1973

Sir

I have the honour to refer to discussions which have taken place between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Gibraltar and to record below the points which have been agreed between the two Governments concerning an Interim Agreement on Social Security arising out of the United Kingdom's Accession to the European Economic Community.

- 1 Any reference in the following paragraphs to a territory shall be construed as a reference to the territory of the United Kingdom or Gibraltar or both as the case may be and any reference to a child shall be construed as a reference to any person for whom family allowances are payable under the legislation in question.
- 2(a) Any person shall have the same rights and liabilities in relation to social security other than family allowances, as he would have had if the United Kingdom and Gibraltar had been separate Member States of the European Economic Community.
(b) For the purpose of giving effect to paragraph (a) above the same procedures shall so far as is practicable be adopted in relation to the person and benefit concerned as would have been applicable had the United Kingdom and Gibraltar been such separate Member States.
- 3 For the purpose of the right to receive payment of a pension for old age, widow's benefit, guardian's allowance, child's special allowance or dependency benefits in respect of any such pension, benefit or allowance, under the legislation applicable to either the United Kingdom, or Gibraltar, any period during which a person, not subject to paragraph 2, was present or ordinarily resident in the other territory shall be treated as a period during which he was present or ordinarily resident, as the case may be, in the territory to which the legislation applies.
- 4 In relation to family allowances—
 - (a) where under the legislation applicable to a territory—
 - (i) the completion of a period of presence in that territory is required, any period during which a person was in the other territory shall be treated as a period during which he was in the territory to which the legislation applies,
 - (ii) the place of a person's birth is relevant, a person who was born in the other territory shall be treated as having been born in the territory to which the legislation applies;
 - (b) family allowances shall not be payable in respect of the same child under the legislation applicable to both territories and where but for this provision they would have been so payable, they shall be paid under the legislation which applies to the territory in which the child is ordinarily resident.

- 5 Such administrative and financial arrangements may be made as may be required for the application of this Agreement.
- 6 The Agreement shall enter into force forthwith and shall remain in force until reviewed at any time by agreement between both parties.

If the Government of Gibraltar agree that the foregoing correctly sets out the points agreed between the two Governments, I have the honour to propose that this despatch and your reply to that effect shall constitute an Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Gibraltar.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Alec Douglas-Home.

No. 2

The Governor of Gibraltar to the Secretary of State for Foreign and Commonwealth Affairs

30 January 1974

Sir

I have the honour to acknowledge receipt of your Despatch of 12 December 1973 and to confirm that this correctly states the understanding between our two Governments concerning an Interim Agreement on Social Security arising out of the UK accession to the European Economic Community.

2. I agree that the Despatch and this reply shall be regarded as placing that understanding on record.

I have the honour to be

Sir

Your most obedient humble servant

John Grandy

EXPLANATORY NOTE

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

This Order gives effect in Northern Ireland to the Agreement (contained in an exchange of Letters set out in the Schedule) made between the Governments of the United Kingdom and Gibraltar in relation to the matters for which provision is made by the Family Allowances Acts (Northern Ireland) 1966 to 1969, the National Insurance Acts (Northern Ireland) 1966 to 1973 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1973.