

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 Maginness

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;

- (g) "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—

- (a) during which he was resident in the United Kingdom; or
 - (b) during which he was proceeding from the United Kingdom to Australia, if he arrived in Australia within thirteen weeks after leaving the United Kingdom.
- (2) This Article shall have effect subject to the provisions of Article 25.

Part III.—Widows' Benefits and Widows' Pensions

ARTICLE 9

United Kingdom widows' benefits by virtue of residence in Australia

(1) For the purposes of any claim to receive a widow's benefit under the legislation of the United Kingdom, a widow who is permanently resident in the United Kingdom shall be treated as if her husband had paid contributions under that legislation 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 a widow who is permanently resident in the United Kingdom was receiving a widow's pension under the legislation of Australia, otherwise than by virtue of this Agreement or the former Agreement, at the time when she was last in that country, and is not qualified by virtue of paragraph (1) of this Article to receive a widowed mother's allowance or widow's pension at the full standard rate under the legislation of the United Kingdom, she shall be qualified to receive at the full standard rate—

- (a) a widowed mother's allowance if she has a child in her family or if she has residing with her a person under the age of eighteen years and the widow's pension which she was receiving at the time when she was last in Australia was being paid to her on the basis that she had the custody, care and control of that child or of that person; or
- (b) a widow's pension or retirement pension, as the case may require, if she is not qualified to receive a widowed mother's allowance but had reached the age of fifty years either before she last left Australia or when she ceased to be qualified to receive a widowed mother's allowance.

(3) Subject to the provisions of Article 21, any widow's benefit which is awarded by virtue of this Article shall cease to be payable if the widow ceases to be permanently resident in the United Kingdom.

ARTICLE 10

United Kingdom widow or widow's child in Australia

(1) Where a woman would be qualified to receive a widow's benefit under the legislation of the United Kingdom, otherwise than by virtue of this Agreement or the former Agreement, if she were in the United Kingdom, she shall be qualified to receive that benefit while she is in Australia.

(2) Where a woman would be qualified under the legislation of the United Kingdom, otherwise than by virtue of this Agreement or the former Agreement, to receive a widowed mother's allowance, including an allowance for a child, if her child were in the United Kingdom, she shall be qualified to receive that allowance for any period—

- (a) during which the child is in Australia; or
- (b) during which the child is proceeding from one country to the other, if he arrives in the latter country within thirteen weeks after leaving the former country.

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

ARTICLE 11

Australian widows' pensions by virtue of residence in the United Kingdom

(1) For the purposes of any claim to receive a widow's pension under the

legislation of Australia, a woman who is permanently resident in that country shall be treated as if she had been resident in Australia during any period—

- (a) during which she was resident in the United Kingdom;
 - (b) during which she was absent from the United Kingdom, if her husband paid contributions or had contributions credited to him for that period under the legislation of the United Kingdom; or
 - (c) during which she was proceeding from the United Kingdom to Australia, if she arrived in Australia within thirteen weeks after leaving the United Kingdom.
- (2) This Article shall have effect subject to the provisions of Article 25.

Part IV.—Family Allowances, Guardians' Allowances and Child Endowment

ARTICLE 12

Family benefit paid in one country by virtue of residence in the other

(1) If a person is in the United Kingdom but is treated, otherwise than by virtue of this Agreement, for the purposes of the legislation of Australia as being in Australia, he shall be qualified to receive family benefit for a child in accordance with the provisions of that legislation; and no family benefit for that child shall be paid under the legislation of the United Kingdom.

(2) Subject to the provisions of paragraph (1) of this Article—

- (a) if a person who has claimed family benefit under the legislation of one country or the child for whom family benefit has been so claimed is permanently resident in that country, then, for the purposes of any right to receive that benefit, any period during which he was resident or present in the other country shall be treated as a period during which he was, respectively, resident or present in the former country and, if he was born in the latter country, he shall be treated as if he had been born in the former country; and
- (b) if a person who has claimed family benefit under the legislation of one country is temporarily absent from that country, he shall, for the purposes of any right to receive that benefit, be treated during any period during which he is in the other country as if he were in the former country, provided that the said period begins within thirteen weeks after the time when he was last in the former country; but he shall be qualified to receive only the amount of family benefit which he would have received under the legislation of the latter country if that amount is less than the amount which he would have received under the legislation of the former country.

(3) Where the circumstances in which a person is receiving education or undergoing training in Australia are such that, if they had occurred in the United Kingdom, they would have enabled that person to be treated, for the purposes of the legislation of the United Kingdom, as undergoing full-time instruction in a school or as undergoing full-time training, as the case may be, that person shall, for the purposes of any right to receive family benefit under the legislation of the United Kingdom, be treated as undergoing full-time instruction in a school or as undergoing full-time training, as the case may be.

(4) Any child born to a woman while she is temporarily absent from one country in circumstances in which she is treated, in accordance with sub-paragraph (b) of paragraph (2) of this Article, as if she were in that country shall, for the purposes of any right to receive family benefit under the legislation of that country, be treated as if the child had been born in that country and, so long as the woman or her husband is so temporarily absent, as if the child were in that country during any period during which the child is in the other country.

(5) Where any person is qualified to receive family benefit for a child under the legislation of one country by virtue of the provisions of paragraph (2) of this Article, no family benefit for that child shall be paid under the legislation of the other country.

ARTICLE 13

Guardians' allowances

Where a person who is permanently resident in the United Kingdom claims a guardian's allowance for a child who is permanently resident there, any parent of that child who, after reaching the age of fifteen years, was resident in Australia on or after the 5th July, 1948, shall be treated as if he had been insured under the legislation of the United Kingdom.

ARTICLE 14

Family allowances in Northern Ireland

The Contracting Parties agree that the Reciprocal Arrangements relating to Family Allowances in Northern Ireland and Child Endowment in Australia, a Memorandum of which is set out in the Schedule to the former Agreement, shall continue to have effect.

Part V.—Sickness Benefits and Invalid Pensions

ARTICLE 15

Australian sickness benefits by virtue of United Kingdom residence

If a person in Australia claims a sickness benefit under the legislation of that country, he shall be treated, for the purposes of that claim, as if he had been resident in Australia—

- (a) during any period during which he was resident in the United Kingdom; and
- (b) during the period after his departure from the United Kingdom until his arrival in Australia, if that period does not exceed thirteen weeks.

ARTICLE 16

Australian invalid pensions by virtue of United Kingdom residence

(1) If a person who is permanently resident in Australia claims an invalid pension under the legislation of that country, he shall be treated for the purposes of that claim—

- (a) as if he had been resident in Australia during any period—
 - (i) during which he was resident in the United Kingdom; or
 - (ii) during which he was proceeding from the United Kingdom to Australia, if he arrived in Australia within thirteen weeks after leaving the United Kingdom; and
- (b) as if he had become permanently incapacitated for work or permanently blind while in Australia, if he became permanently incapacitated for work or permanently blind, as the case may be, while in the United Kingdom or while proceeding from the United Kingdom to Australia.

(2) If a person is qualified to receive an invalid pension by virtue of the provisions of paragraph (1) of this Article, then, subject to the provisions of paragraph (3) of this Article and to the provisions of the legislation of Australia, his wife shall be qualified to receive a wife's allowance and he or his wife shall be qualified to receive a child's allowance.

(3) Where a person, at the time when he arrives in Australia, is qualified to receive an invalid pension by virtue of the provisions of paragraph (1) of this Article—

- (a) he shall not receive more by way of such pension than the amount of the sickness benefit which he would have received under the legislation of the United Kingdom if he had remained in that country and any provision of that legislation about overlapping benefits which would have been appropriate in his case had not been applied;
- (b) his wife shall not receive more by way of a wife's allowance than the amount by which the amount of the sickness benefit which he would have

received under the legislation of the United Kingdom exceeds the amount of the invalid pension which he is qualified to receive; and

- (c) any child's allowance which he or his wife is qualified to receive shall not exceed the amount by which the amount of the sickness benefit which he would have received under the legislation of the United Kingdom exceeds the total amount of the invalid pension and the wife's allowance which he and his wife are respectively qualified to receive.

ARTICLE 17

United Kingdom sickness benefit by virtue of gainful occupation in Australia

(1) Where a person, who is, or would but for his incapacity for work be, ordinarily gainfully occupied claims a sickness benefit under the legislation of the United Kingdom or applies for contributions to be credited to him under that legislation for any period during which he is incapable of work, he shall be treated—

(a) as if he had paid a contribution—

- (i) under the legislation of the United Kingdom concerning National Health Insurance in force before the 5th July, 1948, for any week before that date during which he was gainfully occupied under a contract of service in Australia;
- (ii) as an employed person for any week after that date during which he was gainfully occupied under a contract of service in Australia;
- (iii) as a self-employed person for any other week after that date during which he was gainfully occupied in Australia; and
- (iv) as a non-employed person for any week after that date 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;

(b) as if he had had a contribution credited to him—

- (i) as an employed person for any week during which he was resident in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied under a contract of service; and
- (ii) as a self-employed person for any other week during which he was resident in Australia and was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied.

(2) Nothing in paragraph (1) of this Article shall diminish any right which a person has, apart from this Agreement, to receive a sickness benefit under the legislation of the United Kingdom.

(3) Where a person who is permanently resident in the United Kingdom was receiving—

- (a) a sickness benefit, an invalid pension or a rehabilitation allowance under the legislation of Australia; or
- (b) a payment under the *Tuberculosis Act, 1948*, of the Commonwealth of Australia,

when he was last in Australia and is incapable of work at the time when he arrives in the United Kingdom, he shall be treated under the legislation of the United Kingdom as if, at that time and for so long as he continues from that time to be incapable of work, he satisfied the contribution conditions under which sickness benefit is payable for an indefinite period.

Part VI.—Unemployment Benefits

ARTICLE 18

(1) If a person in one country claims an unemployment benefit under the legislation of that country, he shall be treated for the purposes of his claim as if he had been resident in that country during any period—

- (a) during which he was resident in the other country; or
- (b) during which he was proceeding from the latter country to the former country, if that period does not exceed thirteen weeks.

(2) Where a person claims an unemployment benefit under the legislation of the United Kingdom or applies for contributions to be credited to him under that legislation for any period during which he is unemployed, he shall be treated—

- (a) as if he had paid a contribution—
 - (i) as an employed person for any week during which he was gainfully occupied under a contract of service in Australia;
 - (ii) as a self-employed person for any other week during which he was gainfully occupied in Australia; and
 - (iii) as a non-employed person for any week 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;
- (b) as if he had had a contribution credited to him—
 - (i) as an employed person for any week during which he was resident in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied under a contract of service; and
 - (ii) as a self-employed person for any other week during which he was resident in Australia and was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied.

(3) Nothing in paragraph (2) of this Article shall diminish any right which a person has, apart from this Agreement, to receive an unemployment benefit under the legislation of the United Kingdom.

Part VII.—Beneficiaries moving from one Country to the other

ARTICLE 19

Australian pensioner migrating to the United Kingdom

Where a person—

- (a) leaves Australia to become permanently resident in the United Kingdom and arrives in the United Kingdom within thirteen weeks after leaving Australia; and
- (b) was qualified to receive and was receiving an age pension, an invalid pension, a wife's allowance, a child's allowance or a widow's pension under the legislation of Australia, whether by virtue of this Agreement or otherwise, immediately before leaving Australia,

that pension shall not cease to be payable, and may be paid, for the period during which he is proceeding to the United Kingdom.

ARTICLE 20

Australian pensioner visiting the United Kingdom

(1) The provisions of this Article shall apply only to age pensions, invalid pensions, wives' and children's allowances and widows' pensions payable under the legislation of Australia, whether by virtue of this Agreement or otherwise.

(2) Where a person—

- (a) is temporarily absent from Australia and arrives in the United Kingdom within thirteen weeks after leaving Australia; and
- (b) was qualified to receive, and was receiving, a benefit immediately before leaving Australia,

that benefit shall not cease to be payable, and may be paid, during that temporary absence, but payment for the period after his departure from the United Kingdom until his arrival in Australia shall not be made unless that period does not exceed thirteen weeks.

(3) A person—

- (a) who is temporarily absent from Australia and arrives in the United Kingdom within thirteen weeks after leaving Australia;
- (b) who, if he had not left Australia, would have become qualified to receive a benefit at a time during that temporary absence; and
- (c) who, if that time is between the date of his departure from the United Kingdom and the date of his arrival in Australia, arrives in Australia within thirteen weeks after leaving the United Kingdom,

shall be treated as if he had become qualified to receive that benefit at that time, and the benefit shall be payable, and may be paid, during his temporary absence, but payment for the period after his departure from the United Kingdom until his arrival in Australia shall not be made unless that period does not exceed thirteen weeks.

(4) Where—

- (a) a person is, by virtue of the last preceding paragraph, treated as if he had become qualified to receive a benefit at a time after his departure from Australia but before his arrival in the United Kingdom or after his departure from the United Kingdom but before his arrival in Australia; and
- (b) he lodges a claim for that benefit within fourteen days after his arrival in the United Kingdom or Australia, as the case may be,

the claim shall be treated, for the purposes of determining the date from which the benefit may be paid, as if it had been lodged at the time when he is treated as having become so qualified.

ARTICLE 21

United Kingdom beneficiary proceeding to or from Australia

(1) Where a person—

- (a) leaves the United Kingdom to become permanently resident in Australia and arrives in Australia within thirteen weeks after leaving the United Kingdom; and
- (b) was qualified to receive a retirement pension or a widow's benefit under the legislation of the United Kingdom, whether by virtue of this Agreement or otherwise, immediately before his departure from the United Kingdom,

that person shall continue to be so qualified for the period of the journey.

(2) Where a person to whom the provisions of paragraph (1) of this Article do not apply would be qualified, if he were in the United Kingdom, to receive a retirement pension or a widow's benefit under the legislation of that country, otherwise than by virtue of this Agreement or the former Agreement, he shall be qualified to receive that pension or benefit for any period during which he is proceeding from one country to the other.

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

Part VIII.—Miscellaneous Provisions

ARTICLE 22

United Kingdom beneficiary with dependant in Australia

(1) Where a person, who is qualified to receive any benefit under the legislation of the United Kingdom, other than a retirement pension payable by virtue of Article 3 of this Agreement, would be qualified to receive also an increase of that benefit for a dependant if the dependant were in the United Kingdom, he shall be qualified to receive that increase while the dependant is in Australia unless the dependant is a child for whom child endowment is payable under the legislation of Australia.

(2) Where the dependant of any person is proceeding from one country to the other, and arrives in the latter country within thirteen weeks after leaving

the former country, the provisions of paragraph (1) of this Article shall apply to that person as if the dependant were in Australia.

ARTICLE 23

Family benefit for period of journey

Where a person was qualified under the legislation of either country, whether by virtue of this Agreement or otherwise, to receive family benefit for a child immediately before he or the child or both left one of the two countries and would have remained so qualified if he or the child or both, as the case may be, had not left that country, the benefit shall not cease to be payable, and may be paid, for any period (not exceeding thirteen weeks in the case of any one journey) during which he or the child or both, as the case may be, are proceeding to the other country.

ARTICLE 24

Rate of United Kingdom benefit in Australia

Where a person who is not resident in the United Kingdom is in Australia and is qualified to receive any benefit under the legislation of the United Kingdom, the rate of that benefit shall be determined in accordance with those provisions of that legislation which concern the payment of benefit to persons who are not resident in the United Kingdom.

ARTICLE 25

United Kingdom beneficiary qualified to receive Australian benefit

(1) The provisions of this Article shall apply, in relation to the United Kingdom, only to retirement pensions and widows' benefits, and, in relation to Australia, only to age pensions, invalid pensions, wives' allowances and widows' pensions, whether they are payable by virtue of this Agreement or otherwise; and, for the purposes of applying those provisions, the effect of any provision of the legislation of the United Kingdom which concerns overlapping benefits shall be disregarded.

(2) Subject to the provisions of paragraph (4) of this Article, where a person is qualified to receive a benefit under the legislation of Australia, the amount of any benefit which he is entitled to receive under the legislation of the United Kingdom shall be disregarded in the computation of his income and shall be deducted from the amount of benefit which would otherwise be payable to him under the legislation of Australia.

(3) Where a married woman is qualified to receive a benefit under the legislation of Australia, the amount of any increase of benefit which her husband is entitled to receive for her under the legislation of the United Kingdom shall be disregarded in the computation of his income and her income, and shall be deducted from the amount of benefit which would otherwise be payable to her under the legislation of Australia.

(4) Where a man and his wife are both entitled to receive benefits under the legislation of Australia, the provisions of paragraph (2) of this Article shall not apply to any increase of benefit which he is entitled to receive for her under the legislation of the United Kingdom, but the provisions of paragraph (3) shall apply to that increase of benefit.

ARTICLE 26

Widow receiving invalid or widow's pension before migration to the United Kingdom

Where a widow who is permanently resident in the United Kingdom was receiving an invalid pension or a widow's pension under the legislation of Australia, otherwise than by virtue of this Agreement or the former Agreement, from the time when her husband died until the time when she was last in Australia, she shall, for the purposes of any claim to receive a sickness benefit, an unemployment benefit or a retirement pension under the legislation of the United Kingdom, be treated as if, at the time when she arrived in the United Kingdom, she ceased to be entitled to a widow's allowance under that legislation.

ARTICLE 27

Meaning of "permanently resident"

For the purposes of applying the provisions of Articles 3, 8, 9, 11, 12, 13, 16, 17, 19, 20, 21 and 26, a person shall be treated as permanently resident in one country and shall not be treated as temporarily absent from the other country—

- (a) if the competent authority of the former country is satisfied that he is likely to remain there for at least three years; or
- (b) if he has been temporarily resident in the former country for at least one year and the competent authorities of the two countries have not agreed that he should not be treated as permanently resident in that country.

ARTICLE 28

Meaning of "resident in the United Kingdom"

For the purposes of applying the provisions of Articles 8, 11, 12, 15, 16 and 18, a person shall be treated as having been resident in the United Kingdom during any period of absence from that country during which he was not resident in Australia and for which he paid contributions voluntarily or compulsorily under the legislation of the United Kingdom or for which he had contributions credited to him under that legislation.

ARTICLE 29

Meaning of "resident in Australia"

(1) For the purposes of applying the provisions of Articles 3, 5, 6, 9, 12, 13, 17 and 18, a person shall be treated as having been resident in Australia during any period of absence from that country if he was treated, otherwise than by virtue of this Agreement or the former Agreement, as being resident there during that period for the purposes of the legislation of that country.

(2) For the purposes of applying the provisions of Articles 3, 5, 6, 9, 17 and 18, no account shall be taken of any period during which a person was resident in Australia before he reached the age of fifteen years or after he reached pension age.

Part IX.—Administration

ARTICLE 30

Administrative arrangements

The competent authorities—

- (a) shall make such administrative arrangements as may be required for the purposes of giving effect to this Agreement and shall determine all matters of an incidental and supplementary nature which in their opinion are relevant for that purpose;
- (b) shall communicate to each other information regarding any measure taken by them to give effect to this Agreement;
- (c) shall supply to each other, on request, information regarding the circumstances of any person who claims a benefit in accordance with the provisions of this Agreement; and
- (d) shall communicate to each other, as soon as possible, information regarding any changes made in the legislation of their countries which affect the application of this Agreement.

ARTICLE 31

Agency payments

Where, under the provisions of Articles 7, 10, 12, 19, 20, 21 or 23 of this Agreement, any benefit is payable under the legislation of one country to a person who is in the other country, the payment may, at the request of the competent authority of the former country, be made by the competent authority of the latter country as agent for the competent authority of the former country.

Part X.—Extension of Agreement to other Territories

ARTICLE 32

(1) Where any territory for whose international relations the Government of the United Kingdom is responsible has a scheme of social insurance which

provides benefits comparable with the benefits provided by the schemes of National Insurance of the United Kingdom and is linked with those schemes by means of a reciprocal agreement, the Contracting Parties, at the request of the Government of that territory, may agree to extend this Agreement by means of an Exchange of Notes so that it applies to that territory.

(2) If this Agreement is extended to any territory in accordance with the provisions of paragraph (1) of this Article, it shall apply, subject to such modifications as may be agreed by the Contracting Parties and specified in the Exchange of Notes—

- (a) to periods of residence in that territory or insurance under that territory's scheme of social insurance, in the same way as it applies to periods of residence in the United Kingdom or insurance under the legislation of the United Kingdom; and
- (b) in relation to persons in that territory or resident in that territory, to that territory's scheme of social insurance, in the same way as it applies, in relation to persons in the United Kingdom or resident in the United Kingdom, to the legislation of the United Kingdom,

and, subject as aforesaid, the legislation of the United Kingdom shall be deemed to include any Order in Council giving effect to the reciprocal agreement which links that territory's scheme of social insurance with the schemes of National Insurance of the United Kingdom.

Part XI.—Transitional and Final Provisions

ARTICLE 33

Transitional provisions

(1) No provision of this Agreement shall confer any right to receive any payment of a benefit for a period before the date of the entry into force of this Agreement.

(2) Any contribution which a person has paid under the legislation of the United Kingdom before the date of the entry into force of this Agreement, and any period during which a person has been resident in either country before that date, shall be taken into account for the purposes of determining the right to receive a benefit in accordance with the provisions of this Agreement.

(3) No provision of this Agreement shall diminish any rights which a person has acquired under the legislation of either country before the date of the entry into force of this Agreement, whether by virtue of the former Agreement or otherwise, and a person who, before the 7th January, 1959, makes a claim to receive an age pension, an invalid pension or a wife's allowance shall have the right to have his claim determined without regard to the provisions of this Agreement or the former Agreement.

ARTICLE 34

Termination of Agreement

In the event of the termination of this Agreement, any rights acquired by a person in accordance with its provisions shall be maintained, and the Contracting Parties shall negotiate for the settlement of any rights then in course of acquisition by virtue of those provisions.

ARTICLE 35

Entry into force of Agreement.

(1) This Agreement shall enter into force on the 1st April, 1958, and shall remain in force for a period of one year from that date. Thereafter it shall continue in force from year to year unless—

- (a) the Parties agree to terminate it; or
- (b) either Party gives notice of termination in writing at least six months before the expiry of any such yearly period.

(2) Subject to the provisions of Articles 14 and 33, the former Agreement shall be terminated on the date of entry into force of this Agreement.

IN WITNESS whereof the undersigned, duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Canberra, this twenty-ninth day of January, Nineteen hundred and fifty-eight.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

HAROLD MACMILLAN.

For the Government of the Commonwealth of Australia:

ROBERT MENZIES.

SECOND 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, 16th August 1962

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

Desiring to modify and extend the Agreement on Social Security which was signed on their behalf at Canberra on the 29th January 1958,

Have agreed as follows:

ARTICLE 1

For the purposes of this Agreement, the expression "the Principal Agreement" means the 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 which was signed at Canberra on behalf of those Governments on the 29th January 1958.

ARTICLE 2

Article 1 of the Principal Agreement shall be amended—

- (a) by inserting after paragraph (d) the following paragraph:—
 "(da) 'contribution', in relation to the legislation of the United Kingdom, does not include a graduated contribution within the meaning of that legislation;";
- (b) by omitting paragraph (n) and substituting the following paragraph:—
 "(n) 'retirement pension' means a retirement pension under the legislation of the United Kingdom and includes a contributory old age pension under that legislation and any graduated retirement benefit constituted by an increase in the weekly rate of a retirement pension under that legislation;"; and
- (c) by omitting paragraph (p) and substituting the following paragraph:—
 "(p) 'widow's benefit', in relation to the United Kingdom, means a widow's allowance, a widowed mother's allowance (including any graduated retirement benefit constituted by an increase in the weekly rate of a widowed mother's allowance) or a widow's pension under the legislation of that

country or a widow's basic pension payable under the legislation of that country to a woman who became a widow before the 5th July, 1948;"

ARTICLE 3

Article 2 of the Principal Agreement shall be amended by inserting in clause (ii) of sub-paragraph (a) of paragraph (1), after the words "the Family Allowances Act, 1945," the words "the Family Allowances Act (Northern Ireland), 1945".

ARTICLE 4

Article 3 of the Principal Agreement shall be amended—

- (a) by inserting in paragraph (2), before the word "unless", the words "in respect of any period during which she was a married woman"; and
- (b) by omitting paragraph (3) and substituting the following paragraphs:—

"(3) Where—

- (a) a woman claiming a retirement pension by virtue of her own insurance has been, but is not at the time of the claim, married and chooses to have her former husband's contributions taken into account for the purposes of her claim; and
- (b) her former husband had been resident in Australia for any period, her former husband shall be treated, for the purposes of her claim, as if he had paid contributions under the legislation of the United Kingdom for any period referred to in sub-paragraph (b) of this paragraph and for any other period commencing immediately after, or ending immediately before, that period during which he was proceeding on a journey between Australia and the United Kingdom that was completed within thirteen weeks.

"(3A) Where a person claiming a retirement pension is a woman who—

- (a) would have been qualified to receive a widow's benefit, other than a widow's basic pension, for any period by virtue of Article 9 of this Agreement, if this Agreement had been in force during that period; or
- (b) would be qualified, under the arrangements made for crediting contributions to widows claiming retirement pensions under the legislation of the United Kingdom, to have contributions credited to her for any period if this Agreement had been in force during that period,
she shall be treated, for the purposes of her claim, as if contributions had been credited to her for that period.";
- (c) by omitting from paragraph (4) the words and figures "paragraphs (1), (2) and (3)" and substituting the words "the preceding paragraphs"; and
- (d) by omitting the proviso to paragraph (4) and substituting the following proviso:—

"Provided that, if that person is a married woman who does not satisfy either of the conditions specified in paragraph (2) of this Article, she shall be treated as if her husband and not she satisfied the said contribution conditions."

ARTICLE 5

Article 5 of the Principal Agreement shall be amended by inserting after the word "contributions" (first occurring) the words "including graduated contributions,".

ARTICLE 6

Article 8 of the Principal Agreement shall be amended by inserting after paragraph (1) the following paragraph:—

“(1A) For the purposes of any claim to receive an age pension, a woman who is permanently resident in Australia and who is, or has been, married shall be treated as if she had been resident in Australia during any period of absence from the United Kingdom during her marriage, if her husband paid contributions or had contributions credited to him for that period under the legislation of the United Kingdom.”

ARTICLE 7

Article 12 of the Principal Agreement shall be amended—

(a) by omitting paragraph (2) and substituting the following paragraph:—

“(2) Subject to the provisions of paragraph (1) of this Article—

- (a) if a person who has claimed family benefit under the legislation of one country is permanently resident in that country, then, for the purposes of any right to receive that benefit, any period during which he was in the other country shall be treated as a period during which he was in the first-mentioned country, and, if he was born in the other country, he shall be treated as if he had been born in the first-mentioned country;
- (b) if a child for whom family benefit has been claimed under the legislation of one country is permanently resident in that country, then, for the purposes of any right to receive that benefit, any period during which he was resident in the other country shall be treated as a period during which he was resident in the first-mentioned country, and, if he was born in the other country, he shall be treated as if he had been born in the first-mentioned country;
- (c) if a person who has claimed family benefit for a child under the legislation of one country is in the other country and is not qualified to receive family benefit for that child under the legislation of the other country, he shall be treated for the purposes of his claim as if he were in the first-mentioned country; and
- (d) if a person who has claimed family benefit under the legislation of one country is temporarily absent from that country and, during that absence, is in the other country for a period commencing within thirteen weeks after his departure from the first-mentioned country, he shall, for the purposes of any right to receive that benefit, be treated as if during that period he were in the first-mentioned country, but he shall not be qualified to receive during that period an amount of family benefit greater than the amount that he would have been qualified to receive during that period under the legislation of the other country if that legislation had applied in relation to him and his family during that period.”; and
- (b) by omitting from paragraph (4) the word and letter “sub-paragraph (b)” and substituting the word and letter “sub-paragraph (d)”.

ARTICLE 8

Article 14 of the Principal Agreement shall be omitted.

ARTICLE 9

Article 16 of the Principal Agreement shall be amended—

- (a) by omitting from paragraph (2) the word and figure “paragraph (3)” and substituting the words and figures “paragraphs (3) and (4)”; and
- (b) by omitting paragraph (3) and substituting the following paragraphs:—

“(3) Where a person is permanently incapacitated for work or permanently blind at the time when he arrives in Australia, the fortnightly amount of any invalid pension, or the sum of the fortnightly amounts of any invalid pension, wife’s allowance and child’s allowance, payable in his

case by virtue of the provisions of paragraphs (1) and (2) of this Article, shall not exceed twice the full standard weekly rate of sickness benefit which would be payable to him under the legislation of the United Kingdom if he and his family (if any) had remained in that country and none of the provisions of that legislation about overlapping benefits were applied to him.

“(4) Where the sum of the fortnightly amounts of two or more benefits is reduced by virtue of the provisions of paragraph (3) of this Article, the fortnightly amount payable by way of each of those benefits shall bear the same relation to the maximum fortnightly amount of that benefit as the first-mentioned sum, thus reduced, bears to the sum of the maximum fortnightly amounts of those benefits.

“(5) For the purposes of this Article, a person shall be deemed to be permanently incapacitated for work if the degree of his permanent incapacity for work is not less than 85 per centum as determined under the legislation of Australia.”

ARTICLE 10

Sub-paragraph (b)(ii) of paragraph (1) of Article 17 and sub-paragraph (b)(ii) of paragraph (2) of Article 18 of the Principal Agreement shall be omitted and in their places there shall be substituted the following sub-paragraph:—

“(ii) as a self-employed person for any other week during which he was resident in Australia and was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied or if he was having contributions credited to him on grounds of incapacity for work under the legislation of the United Kingdom immediately before the time when he last left that country before that week.”

ARTICLE 11

Article 19 of the Principal Agreement shall be omitted and in its place there shall be substituted:—

“ARTICLE 19

“Where a person—

Australian pensioner migrating to the United Kingdom. (a) leaves Australia to become permanently resident in the United Kingdom and arrives in the United Kingdom within thirteen weeks after leaving Australia; and

(b) was qualified to receive and was receiving an age pension, an invalid pension, a wife's allowance, a child's allowance or a widow's pension under the legislation of Australia, whether by virtue of this Agreement or otherwise, immediately before leaving Australia,

that pension or allowance shall not cease to be payable, and may be paid, for the period during which he is proceeding to the United Kingdom and, if he makes a claim within fourteen days after the day of his arrival in the United Kingdom for a benefit under the legislation of the United Kingdom corresponding to that pension or allowance and that benefit is payable to him under the legislation of the United Kingdom, for the period from the day of his arrival in the United Kingdom till the day immediately before the day from which the benefit that he claims becomes payable to him.”

ARTICLE 12

Article 20 of the Principal Agreement shall be amended—

(a) by inserting in sub-paragraph (a) of paragraph (2), after the word “Australia” (first occurring), the words “for the primary purpose of visiting the United Kingdom”; and

- (b) by inserting in sub-paragraph (a) of paragraph (3), after the word "Australia" (first occurring), the words "for the primary purpose of visiting the United Kingdom".

ARTICLE 13

Article 21 of the Principal Agreement shall be amended by omitting paragraph (1) and substituting the following paragraph:—

"(1) Where a person—

- (a) leaves the United Kingdom to become permanently resident in Australia and arrives in Australia within thirteen weeks after leaving the United Kingdom; and
- (b) was qualified, whether by virtue of this Agreement or otherwise, to receive a retirement pension or a widow's benefit under the legislation of the United Kingdom immediately before his departure from the United Kingdom,

that person shall continue to be so qualified for the period of the journey and, if he makes a claim within fourteen days after the day of his arrival in Australia for a benefit under the legislation of Australia corresponding to that retirement pension or widow's benefit and that benefit is payable to him under the legislation of Australia, for the period from the day of his arrival in Australia till the day immediately before the day from which the benefit that he claims becomes payable to him."

ARTICLE 14

Article 23 of the Principal Agreement shall be omitted and in its place there shall be substituted:—

"ARTICLE 23

"Where—

Family benefit
for the period
of the journey
and after.

- (a) a person was qualified under the legislation of one country, whether by virtue of this Agreement or otherwise, to receive family benefit for a child immediately before he or the child or both left that country to travel to the other country; and
- (b) the person or the child or both, as the case may be, completes the journey within thirteen weeks,

any family benefit that would have been payable under the legislation of the first-mentioned country if the person or the child or both, as the case may be, had not left the first-mentioned country shall not cease to be payable, and may be paid, for the period of the journey and, if a claim is made within six months after the day of arrival in the other country for a family benefit for the child under the legislation of the other country and that benefit is payable, for the period from the day of arrival in the other country till the day immediately before the day from which the benefit claimed becomes payable."

ARTICLE 15

Article 25 of the Principal Agreement shall be amended—

- (a) by inserting in paragraph (1), after the words "widows' benefits", the words ", other than graduated retirement benefit"; and
- (b) by omitting from paragraph (1) the words "whether they are payable by virtue of this Agreement or otherwise" and substituting the words "being benefits payable under the legislation of Australia by virtue of this Agreement".

ARTICLE 16

After Article 29 of the Principal Agreement there shall be added the following Article:—

"ARTICLE 29A

Meaning of
'gainfully
occupied
under a
contract of
service in
Australia'.

"For the purposes of Articles 17 and 18, a person shall be treated as having been gainfully occupied under a contract of service in Australia during—

- (a) any period of service, whether in Australia or elsewhere, in the Defence Force of Australia; and
- (b) any period of absence from Australia during which he was an employee and was treated as being a resident of Australia within the meaning of any Act relating to the imposition, assessment and collection of a tax upon incomes in force in Australia."

ARTICLE 17

Article 33 of the Principal Agreement shall be amended by omitting paragraph (3) and substituting the following paragraph:—

"(3) No provision of this Agreement shall diminish any rights which a person has acquired under the legislation of either country before the date of the entry into force of this Agreement, whether by virtue of the former Agreement or otherwise, and a person who makes a claim to receive any benefit under the legislation of either country may choose to have his claim determined without regard to the provisions of this Agreement."

ARTICLE 18

This Agreement shall enter into force on the 1st October 1962, and shall be read and construed as one with the Principal Agreement.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed this Agreement.

Done in duplicate at Canberra, this sixteenth day of August, nineteen hundred and sixty-two.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

W. P. Oliver.

For the Government of the Commonwealth of Australia:

Hugh S. Robertson.

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, set out in the First Schedule, made on 29th January, 1958, between the Governments of the United Kingdom of Great Britain and Northern Ireland and of the Commonwealth of Australia and to the Agreement, set out in the Second Schedule made on 16th August, 1962, between those Governments modifying and extending the earlier Agreement. For that purpose it modifies the National Insurance Acts (Northern Ireland), 1946 to 1962, and the Family Allowances Acts (Northern Ireland), 1945 to 1962, in their application to cases affected by the Agreements.

The Order replaces the National Insurance (Reciprocal Agreement with Australia) Order (Northern Ireland), 1958, which gave effect in Northern Ireland as from 1st April, 1958, to those provisions of the earlier Agreement relating to the subject matter of the National Insurance Acts (Northern Ireland), 1946 to 1962.