

FAMILY ALLOWANCES

Reciprocal Arrangements with Australia

REGULATIONS, DATED 1ST JANUARY, 1954, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE FOR NORTHERN IRELAND, IN CONJUNCTION WITH THE MINISTRY OF FINANCE FOR NORTHERN IRELAND, UNDER THE FAMILY ALLOWANCES ACT (NORTHERN IRELAND), 1945.

1954. No. 5

Whereas the Ministry of Labour and National Insurance for Northern Ireland, with the consent of the Ministry of Finance for Northern Ireland, of the one part, and the Minister of State for Social Services in Australia, of the other part, have made reciprocal arrangements relating to family allowances in Northern Ireland and child endowment in Australia and the provisions of such arrangements are contained in the Memorandum of Reciprocal Arrangements set out in the Schedule to these regulations (hereinafter referred to as "the Memorandum"):

And whereas it has been agreed, pursuant to Article 8 of the Memorandum, that the arrangements shall enter into force on the 7th day of January, 1954:

Now, therefore, the Ministry of Labour and National Insurance for Northern Ireland acting in conjunction with the Ministry of Finance for Northern Ireland in exercise of the powers conferred by Section 25 of the Family Allowances Act (Northern Ireland), 1945(a), and of all other powers enabling it in that behalf, hereby makes the following regulations:—

1.—(1) These regulations may be cited as the Family Allowances (Australia Reciprocal Arrangements) Regulations (Northern Ireland), 1954, and shall come into operation on the 7th January, 1954.

(2) References in these regulations to any enactment shall include references to such enactment as amended by any subsequent enactment, order or regulations.

(3) The Interpretation Act, 1921(b), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

2. The provisions contained in the Memorandum shall, as from the 7th January, 1954, have full force and effect so far as the same relate to Northern Ireland, and the Family Allowances Acts (Northern Ireland), 1945 and 1952(c) shall have effect subject to such modifications and adaptations of the provisions thereof as may be requisite for giving effect to the provisions contained in the Memorandum or in consequence thereof.

(a) 1945 Ch. 19.

(b) 12 Geo. 5, Ch. 4.

(c) 1952 Ch. 14.

3. The Ministry of Labour and National Insurance for Northern Ireland, with the consent of the Ministry of Finance for Northern Ireland, may make such financial adjustments as it and the Minister of State for Social Services in Australia may agree to be necessary in consequence of the provisions contained in the Memorandum.

Sealed with the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland, this 1st day of January, 1954, in the presence of

(L.S.)

William Allen,
Assistant Secretary to the Ministry of
Labour and National Insurance for
Northern Ireland.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland, this 1st day of January, 1954, in the presence of

(L.S.)

Thom McCrea,
Assistant Secretary to the Ministry of
Finance for Northern Ireland.

SCHEDULE

MEMORANDUM OF RECIPROCAL ARRANGEMENTS RELATING TO FAMILY ALLOWANCES IN NORTHERN IRELAND AND CHILD ENDOWMENT IN AUSTRALIA MADE BETWEEN THE MINISTRY OF LABOUR AND NATIONAL INSURANCE FOR NORTHERN IRELAND WITH THE CONSENT OF THE MINISTRY OF FINANCE FOR NORTHERN IRELAND OF THE ONE PART AND THE MINISTER OF STATE FOR SOCIAL SERVICES IN AUSTRALIA OF THE OTHER PART.

1. In this Memorandum, unless the context otherwise requires—

- (a) "allowance in respect of a child" means, in relation to Northern Ireland, a family allowance payable under the legislation of Northern Ireland and, in relation to Australia, child endowment payable under the legislation of Australia;
- (b) "appropriate authority" means, in relation to Northern Ireland, the Ministry of Labour and National Insurance and, in relation to Australia, the Director-General of Social Services;
- (c) "country" means, according to the context, Northern Ireland or Australia;
- (d) "Great Britain" means England, Scotland and Wales;
- (e) "legislation" means, according to the context, the laws, orders and regulations specified in paragraph 2 which are or have been or may hereafter be in force in any part of one (or the other) country;
- (f) "United Kingdom" means Great Britain, Northern Ireland and the Isle of Man.

2.—(1) These Arrangements shall apply—

- (a) in relation to Northern Ireland, to the Family Allowances Act (Northern Ireland), 1945; and
- (b) in relation to Australia, to the Social Services Consolidation Act, 1947-1952.

(2) Subject to the provisions of sub-paragraph (3) of this paragraph, the Arrangements shall also apply to any law, order or regulation which carries into effect, amends, supplements or consolidates the legislation specified in sub-paragraph (1) of this paragraph.

(3) The Arrangements shall apply to laws, orders and regulations which amend or supplement the legislation specified in sub-paragraph (1) of this paragraph for the purpose of giving effect to reciprocal agreements on social security which the Ministry of Labour and National Insurance has made with the authorities administering schemes of family allowances in Great Britain and the Isle of Man; but they shall apply, only if the parties to this Memorandum so agree, to laws, orders or regulations which amend or supplement that legislation for the purpose of giving effect to any reciprocal agreement on social security which one (or the other) party or the Government of the United Kingdom of Great Britain and Northern Ireland or the Government of Australia has made with the authority administering any scheme of family allowances in a third country other than Great Britain and the Isle of Man or with the government of such a country.

3.—(1) If a person is in Northern Ireland but is treated for the purposes of the legislation of Australia as being in Australia, he shall be qualified to receive an allowance in respect of a child in accordance with the provisions of that legislation; and no allowance in respect of his child shall be paid under the legislation of Northern Ireland.

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

- (a) if a person is permanently resident in one country, then for the purposes of any right to receive an allowance in respect of a child under the legislation of that country, 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 were born in the former country; and
- (b) a person who is temporarily absent from one country shall, for the purposes of any right to receive an allowance in respect of a child under the legislation of that country, 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 three months after the time when he was last in the former country; but such a person shall be qualified to receive only the amount of the allowance 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 Northern Ireland, they would have enabled

that person to be treated for the purposes of the legislation of Northern Ireland 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 an allowance in respect of a child under the legislation of Northern Ireland, be treated as undergoing full-time instruction in a school, or full-time training, accordingly.

(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 paragraph (b) of sub-paragraph (2) of this paragraph, as if she were in that country shall, for the purposes of any right to receive an allowance in respect of a child 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 in which the child is in the other country.

(5) Where any person is qualified to receive an allowance in respect of a child under the legislation of one country by virtue of the provisions of sub-paragraph (2) of this paragraph, no allowance in respect of that child shall be paid under the legislation of the other country.

4. For the purposes of applying the provisions of sub-paragraph (2) of paragraph 3—

- (a) if a person is permanently resident in the United Kingdom, he shall be treated, while he is in Northern Ireland, as being permanently resident in Northern Ireland;
- (b) if a person, who is temporarily absent from Northern Ireland, was in Great Britain or the Isle of Man at the time when he was last in the United Kingdom, he shall be treated as if he had been in Northern Ireland at that time;
- (c) a person shall be treated as permanently resident in one country and shall not be treated as temporarily absent from the other country—
 - (i) if the appropriate authority of the former country is satisfied that he is likely to remain there for at least three years; or
 - (ii) if he has been temporarily resident in the former country for at least one year and the appropriate authorities of both countries have not agreed that he should not be treated as permanently resident in that country; and
- (d) a person shall be treated as permanently resident in the United Kingdom and shall not be treated as temporarily absent from Australia—
 - (i) if the appropriate authority of Northern Ireland is satisfied that he is likely to remain in the United Kingdom for at least three years; or
 - (ii) if he has been temporarily resident in the United Kingdom for at least one year and the appropriate authorities of both countries have not agreed that he should not be treated as permanently resident in the United Kingdom.

5. Where, under the provisions of paragraph 3, any allowance in respect of a child 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 appropriate authority of the former country, be made by the appropriate authority of the latter country as agent for the authority of the former country.

6.—(1) No provision of these Arrangements shall confer any right to receive an allowance for a period before the date of the entry into force of the Arrangements.

(2) Where any claim to receive an allowance in accordance with the provisions of the Arrangements is made within six months after the date of the entry into force of the Arrangements, it shall be treated as if it had been made on that date or on any subsequent date to which it relates.

(3) A period during which a person has been resident or present in either country before the date of the entry into force of these Arrangements shall be taken into account for the purpose of determining the right to receive an allowance in accordance with the provisions of the Arrangements.

(4) No provision of the Arrangements shall diminish any rights which a person has acquired under the legislation of either country before the date of the entry into force of the Arrangements.

7. In the event of the termination of the Arrangements, any rights acquired by a person in accordance with their provisions shall be maintained.

8. The Arrangements shall enter into force at a date to be agreed between the parties to this Memorandum and shall remain in force for a period of one year from that date. Thereafter they shall continue in force from year to year unless notice of termination is given in writing by either party at least six months before the expiry of any such yearly period.

Given under the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland this 29th day of May, nineteen hundred and fifty-three.

(L.S.)

Ivan Neill,
Minister of Labour and National Insurance
for Northern Ireland.

The Ministry of Finance for Northern Ireland hereby consents.

Given under the Official Seal of the Ministry of Finance for Northern Ireland this 29th day of May, nineteen hundred and fifty-three.

(L.S.)

Brian Maginess,
Minister of Finance for Northern Ireland.

Signed by the Minister of State for Social Services in Australia this 3rd day of June, nineteen hundred and fifty-three.

Athol Townley,
Minister of State for Social Services.