

REPUBLIC OF
IRELAND



Treaty Series No. 30 (1966)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Republic of Ireland

on Social Security

Dublin, 28 February 1966

[The Agreement entered into force on 4 April 1966]

*Presented to Parliament by the Secretary of State for Commonwealth Relations
by Command of Her Majesty
June 1966*

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**AGREEMENT
ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE GOVERNMENT OF THE REPUBLIC
OF IRELAND**

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

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 pensions and other social security benefits,

Have agreed as follows:

PART I

Definitions and General Provisions

ARTICLE 1

(1) In this Agreement, unless the context otherwise requires—

“the legislation of the United Kingdom” means, according to the context, the National Insurance Act 1965, the National Insurance Act (Northern Ireland) 1946 or the National Insurance (Isle of Man) Act 1948 and includes enactments repealed or consolidated by, or repealed by enactments consolidated by, those Acts;

“the legislation of the Republic of Ireland” means the Social Welfare Acts, 1952 to 1965, and includes enactments repealed by those Acts;

“competent authority” means, in relation to the United Kingdom, according to the context, the Minister of Pensions and National Insurance or the Ministry of Health and Social Services for Northern Ireland or the Isle of Man Board of Social Services, and, in relation to the Republic of Ireland, the Minister for Social Welfare;

“the United Kingdom” includes the Isle of Man;

“country” means the United Kingdom or the Republic of Ireland, as the case may require;

“the United Kingdom Fund” means, according to the context, the National Insurance Fund, the Northern Ireland National Insurance Fund or the Manx National Insurance Fund established under the legislation of the United Kingdom;

“the Fund of the Republic of Ireland” means the Social Insurance Fund established under the legislation of the Republic of Ireland;

“the first contribution condition”, “the second contribution condition” and “the third contribution condition” mean, in relation to old age (contributory) pension under the legislation of the Republic of Ireland, the conditions contained respectively in sub-paragraphs (a), (b) and (c) of paragraph 6 of the Fourth Schedule to the Social Welfare Act, 1952 (which paragraph was added thereto by the Social Welfare (Amendment) Act, 1960);

“the first contribution condition” and “the second contribution condition” mean, in relation to widow’s (contributory) pension under the legislation of the Republic of Ireland, the conditions contained respectively in sub-paragraphs (a) and (b) of paragraph 4 of the said Fourth Schedule;

“yearly average”, with respect to any person, means—

(a) in relation to the legislation of the United Kingdom, the yearly average of the contributions paid by or credited to him ascertained in accordance with that legislation at the date of his attaining pensionable age or dying under that age;

(b) in relation to the legislation of the Republic of Ireland, the average per contribution year of the contributions paid by or credited to him ascertained in accordance with that legislation for the purpose of satisfying either, according to the context, the third contribution condition for old age (contributory) pension or, where such condition applies, the second contribution condition for widow’s (contributory) pension;

“old age benefit” means retirement pension (other than graduated retirement benefit) under the legislation of the United Kingdom and old age (contributory) pension under the legislation of the Republic of Ireland;

“retirement pension” means retirement pension under the legislation of the United Kingdom but does not include contributory old age pension under that legislation;

“old age (contributory) pension” means old age (contributory) pension under the legislation of the Republic of Ireland;

“widow’s benefit” and “widow’s pension” do not include widow’s basic pension under the legislation of the United Kingdom;

“pre-entry credits” means the contributions falling, under the legislation of the country concerned, to be credited in respect of the period before a person’s entry into insurance under that legislation;

“entry into insurance” means, in a case where entry into insurance before 5th July, 1948, is taken into account under the legislation of the United Kingdom, last entry into insurance;

“the relevant time” has, in relation to contribution conditions under the legislation of either country, the meaning assigned to it under that legislation.

(2)—(a) References in this Agreement to the legislation of a particular country shall be construed as references to the legislation of the United Kingdom or the legislation of the Republic of Ireland, as the case may require.

(b) References in this Agreement to the Fund of a particular country shall be construed as references to the United Kingdom Fund or the Fund of the Republic of Ireland, as the case may require.

(3) In this Agreement, in relation to retirement pension, references to a wife or husband shall be construed as including references to a widow or late husband, and references to a retirement pension by virtue of a husband’s insurance shall be construed as including references to a retirement pension

by virtue of a widow's own insurance in a case where account is taken of her late husband's contributions in calculating her yearly average.

(4) Subject to the provisions of paragraph (5) of this Article, references in this Agreement to any enactment, order or regulations shall include references to such enactment, order or regulations as amended, modified, adapted, extended, supplemented or consolidated by any subsequent enactment, order or regulations.

(5) The provisions of paragraph (4) of this Article shall apply only if and to the extent that the Contracting Parties so agree, to any enactment, order or regulation which amends, modifies, adapts, extends or supplements the legislation of either country for the purpose of giving effect to any reciprocal agreement or arrangements on social security which one (or the other) Party or the competent authority of either country has made with a third Party or a competent authority outside the two countries.

ARTICLE 2

(1) For the purposes of this Agreement, an insured person under the legislation of either country shall include a person who by virtue of any reciprocal agreements made between the Contracting Parties or the competent authorities of the two countries for the purposes of sickness or disability benefit, received sickness or disability benefit under the legislation of that country or in respect of whom insurance, contributions paid, credited, excused or deemed to be or treated as paid, under the legislation of the other country had been treated as insurance, contributions paid, credited, excused or deemed to be or treated as paid, under the legislation of the first-mentioned country for the purposes of sickness or disability benefit.

(2) Contributions credited to any person under the legislation of one country for the purpose of sickness or disability benefit, being contributions so credited for any period of incapacity (whether before or after the date of coming into force of this Agreement) for which he was or is entitled to such benefit under that legislation by virtue of the relevant reciprocal provisions, shall have effect as contributions credited for all purposes under that legislation; and the relevant reciprocal provisions shall apply for the purpose of exception from liability to pay contributions and of enabling contributions to be credited for periods of incapacity as they apply for the purpose of sickness or disability benefit.

(3) In the foregoing paragraph, "the relevant reciprocal provisions" means the provisions in any reciprocal agreement such as is referred to in paragraph (1) of this Article which provide for the taking into account, for the purpose of sickness or disability benefit under the legislation of one country, of insurance or contributions under the legislation of the other country.

ARTICLE 3

(1) Old age benefit under the legislation of one country shall be paid to a person who is in, or is resident in, the other country as if he were not, as the case may be, absent from or resident outside the first-mentioned country.

(2) The presence, residence or birth of a child or adult dependant in one country (whether before or after this Agreement has effect) shall, for the purpose of an increase of old age benefit in respect of that child or adult dependant under the legislation of the other country, be treated as if it were or had been presence, residence or birth in that other country.

(3) Where, in accordance with any reciprocal agreements made between the Contracting Parties or the competent authorities of the two countries for the purposes of widow's benefit (hereafter in this Article called "the existing reciprocal agreements"), widow's benefit (as therein defined) under the legislation of either country falls to be paid to a widow who is resident in the other country, the rate of such benefit shall, in respect of any period after the coming into force of this Agreement, be determined as if she were then resident in the former country, and any provision in the existing reciprocal agreements limiting the rate of benefit in such a case shall cease to have effect.

(4) For the purposes of this Article old age benefit includes, in relation to the legislation of the United Kingdom, graduated retirement benefit and contributory old age pension under that legislation.

ARTICLE 4

The competent authorities shall from time to time determine the procedure appropriate for the purposes of this Agreement and all matters of an incidental or supplementary nature which in their opinion are relevant for the purpose of giving effect thereto.

ARTICLE 5

This Agreement shall come into force on the 4th day of April, 1966,⁽¹⁾ 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 Contracting 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.

PART II

Old Age Benefit

ARTICLE 6

(1) Subject to the provisions of this Part of this Agreement, a person who is or has been an insured person under the legislation of both countries may at any time after attaining the age of 70 elect to have his insurance under the legislation of the United Kingdom transferred to the Republic of Ireland for the purposes of old age (contributory) pension, if the following conditions are satisfied, namely—

- (a) that the person is not entitled to old age benefit under the legislation of both countries;

⁽¹⁾ S.I. 1966 No. 270.

- (b) that the person attained the age of 65, in the case of a man, or 60, in the case of a woman, and was insured under the legislation of the United Kingdom, on or after 5th July, 1948;
- (c) in the case only of a person entitled so to elect under the provisions of the legislation of the United Kingdom relating to pre-1948 contributors and persons over the age of 55, in the case of a man, or 50, in the case of a woman, on 5th July, 1948, that the person has not made an election not to be qualified for a retirement pension; and
- (d) in the case only of a person (not being a person referred to in the preceding sub-paragraph) who has received a refund of his contributions under the legislation of the United Kingdom, that the person has repaid that refund to the competent authority of the United Kingdom:

Provided that a person who has not attained the age of 70 may make an election under this Article not more than three months before the date on which he will attain that age.

(2) Every election by a person under this Article shall be made by his giving notice in writing to the competent authority of either country and each such election shall be treated under the legislation of the Republic of Ireland as a claim to old age (contributory) pension.

(3) Any such election by a person may be cancelled by him at any time by giving notice in writing to the competent authority of either country to that effect, and such cancellation shall take effect from a date agreed by the competent authorities.

(4) Where an election has been made by a person under this Article and remains in force, then, for the purposes of determining his title to old age (contributory) pension—

- (a) where this would be of advantage to him, he shall be treated for the purpose of the first and second contribution conditions as if his entry into insurance under the legislation of the United Kingdom had been entry into insurance under the legislation of the Republic of Ireland and as if any contributions as an insured person paid by him under the former legislation had been employment contributions paid in respect of him under the latter legislation;
- (b) if his entry into insurance under the legislation of the United Kingdom was on or after 5th January, 1953, but before his entry into insurance under the legislation of the Republic of Ireland he shall be treated under the latter legislation for the purposes of pre-entry credits and the ascertainment of his yearly average as if he had entered insurance thereunder on the date of his entry into insurance under the legislation of the United Kingdom;
- (c) if his entry into insurance under the legislation of the United Kingdom was before 5th January, 1953, he shall be treated under the legislation of the Republic of Ireland for the purposes of pre-entry credits and the ascertainment of his yearly average as if such entry had been an entry into insurance under the legislation of the Republic of Ireland;
- (d) where this would be of advantage to him, and provided that his yearly average under the legislation of the Republic of Ireland, the provisions of sub-paragraphs (b) and (c) of this paragraph being applied where

appropriate, is six or more, his yearly average under the legislation of the United Kingdom shall be added to his yearly average thus ascertained under the legislation of the Republic of Ireland and the sum shall then be treated as his yearly average for the purpose both of satisfying the third contribution condition and of determining the rate of his old age (contributory) pension.

(5) Where an election has been made by a person under this Article and remains in force, and that person is or would, but for the provisions of this paragraph, be entitled to a retirement pension, no such pension shall (save as provided in Article 10) be payable to that person.

(6) Where any amount by way of benefit under the legislation of one country has been paid in respect of any period after an election or cancellation of an election becomes operative and it is afterwards found that, by reason of such election or cancellation, that amount was not payable but benefit was payable (whether to the same person or to that person's spouse) for the same period under the legislation of the other country, the amount so paid shall be treated as having been paid on account of the benefit due under the legislation of the latter country.

ARTICLE 7

(1) In the case of a person who is a married man at the time of giving a notice of election or cancellation of an election under the foregoing Article, the notice shall not take effect unless either his wife consents in writing to the election or cancellation or the competent authority of the United Kingdom is satisfied that she cannot be traced or is unable to act or that for some other reason her consent may be dispensed with.

(2) Where an election has been made by a man under the foregoing Article and remains in force, no retirement pension or widow's benefit under the legislation of the United Kingdom shall (save as provided in Article 10) be payable by virtue of his insurance to his wife, but, where, but for such an election, a retirement pension would have been payable to his wife, any increase of his old age (contributory) pension payable in respect of her may, if she so requests by notice in writing given to the competent authority of the Republic of Ireland, be paid to her instead of to her husband:

Provided that where the man dies while an election remains in force, his widow may cancel the election in the manner provided by Article 6 (3) and thereafter no widow's benefit shall be payable to her under the legislation of the Republic of Ireland arising out of that election.

(3) Where a married person is entitled to an old age (contributory) pension by virtue of the foregoing Article, no increase of that pension shall be payable in respect of his or her spouse for any period for which that spouse is entitled to a retirement pension by virtue of her or his own insurance:

Provided that---

(a) in such a case the spouse may by notice in writing to the competent authority of the United Kingdom choose from time to time to be or not to be entitled to the last-mentioned pension for any week

commencing after the date on which such notice is so given, so however that for any period in respect of which no such notice is given she or he shall be treated as if she or he had chosen to be entitled to that pension;

- (b) the provisions of paragraph (6) of the foregoing Article shall apply to a choice under this Article as they apply to an election under that Article; and
- (c) references in this paragraph, or in a notice of choice thereunder, to a retirement pension shall be deemed not to include such part (if any) of that pension as is referred to in Article 10 (1) (a) and (b).

PART III

Benefit for Widowhood

ARTICLE 8

(1) Subject to the provisions of this Article, a woman whose husband (not being a person who attained the age of 65 or died before 5th July, 1948) was or had been an insured person under the legislation of both countries may at any time after his death elect to have his insurance under the legislation of the United Kingdom transferred to the Republic of Ireland for the purposes of widow's (contributory) pension, if the following conditions are satisfied, namely either—

- (a) the husband died before the date of coming into operation of this Agreement and—
 - (i) on that date she was entitled under the legislation of the United Kingdom to a widowed mother's allowance, a widow's pension or a retirement pension by virtue of the husband's insurance; or
 - (ii) she had attained the age of 50 before the husband's death; or
 - (iii) she has at the time of the election a person under the age of 19 residing with her being a person whose residence with her would, apart from her making a claim and satisfying the relevant contribution conditions, qualify her for a widowed mother's allowance under the legislation of the United Kingdom; or
 - (b) the husband died on or after the date of coming into operation of this Agreement and on the date of her election—
 - (i) she is entitled under the legislation of the United Kingdom to a widowed mother's allowance, a widow's pension or a retirement pension by virtue of the husband's insurance; or
 - (ii) she would be so entitled if the relevant contribution conditions were satisfied and she made a claim; and
 - (c) whether sub-paragraph (a) or (b) of this Article applies, the husband did not receive such a refund of contributions as is referred to in Article 6 (1) (d), or, if he did, it has been repaid to the competent authority of the United Kingdom.
- (2) The provisions of Article 6 (2), (3) and (6) shall apply to an election under this Article as they apply to an election under Article 6, and as if the

reference in Article 6 (2) to old age (contributory) pension were a reference to widow's (contributory) pension.

(3) Where an election has been made by a woman under this Article and remains in force, then, for the purposes of determining her title to a widow's (contributory) pension—

(a) where this would be of advantage to her, she shall be treated for the purpose of the first contribution condition as if any contributions as an insured person paid by the husband under the legislation of the United Kingdom had been employment contributions paid in respect of him under the legislation of the Republic of Ireland:

Provided that the provisions of this sub-paragraph shall not apply to contributions for any period before 5th July, 1948, unless they were paid in a period of insurance which was effective immediately before 5th July, 1948, or would have been so effective if any contribution paid or period of incapacity occurring in the Republic of Ireland had been a contribution paid or period of incapacity occurring in the United Kingdom;

(b) where the husband's entry into insurance under the legislation of the United Kingdom was before his entry into insurance under the legislation of the Republic of Ireland, she shall be treated under the latter legislation for the purposes of the husband's pre-entry credits, the applicability of the second contribution condition and, where that condition applies, the calculation of his yearly average as if he had entered insurance under the legislation of the Republic of Ireland on the date of his entry into insurance under the legislation of the United Kingdom;

(c) where this would be of advantage to her, for the purpose of the second contribution condition (where it applies), provided that the husband's yearly average under the legislation of the Republic of Ireland, the provisions of sub-paragraph (b) of this paragraph being applied where appropriate, is six or more, his yearly average under the legislation of the United Kingdom shall be added to his yearly average thus ascertained under the legislation of the Republic of Ireland and the sum shall then be treated as his yearly average under the latter legislation; and

(d) where the first contribution condition is satisfied on the husband's insurance under the legislation of the Republic of Ireland without the application of sub-paragraph (a) of this paragraph but, notwithstanding the provisions of sub-paragraph (c) of this paragraph, the second contribution condition (where it applies) is not satisfied, any contributions paid by or credited to the husband under the legislation of the United Kingdom in each of the last five contribution years ended before the relevant time under that legislation shall, for the purpose of satisfying the latter condition, be treated as contributions paid by or credited to him under legislation of the Republic of Ireland in the corresponding year of the last five contribution years ended before the relevant time under the latter legislation.

ARTICLE 9

(1) Where an election has been made by a woman under the foregoing Article and remains in force, no widow's benefit, widow's basic pension, retirement pension or contributory old age pension shall (save as provided in Article 10) be payable to her under the legislation of the United Kingdom:

Provided that nothing in the provisions of this paragraph shall prevent the crediting to her under that legislation of any contribution which would apart from those provisions fall to be so credited.

(2) Where, apart from the foregoing paragraph, a woman ceases or would cease to be entitled to a widowed mother's allowance under the legislation of the United Kingdom at a time when she is under the age of 50, any election by her under the foregoing Article shall have effect for any subsequent period only if she is resident in the Republic of Ireland at the time of such cessation of entitlement and for so long as she is so resident.

PART IV

Miscellaneous Provisions

ARTICLE 10

(1) The provisions of Articles 6 (5), 7 (2) and 9 (1) shall not prevent the payment of widow's benefit or retirement pension in the cases to which they apply in so far as that benefit or pension consists of either—

(a) an increase in the weekly rate of retirement pension for flat-rate contributions paid in respect of the period after the beneficiary, or, as the case may be, the beneficiary's husband, attained pensionable age; or

(b) graduated retirement benefit.

(2) Nothing in Part II or Part III of this Agreement shall affect a person's right to a death grant under the legislation of the United Kingdom.

ARTICLE 11

(1) The relevant reciprocal provisions shall not apply, for the purposes of disability benefit under the legislation of the Republic of Ireland, to a person claiming that benefit who on the date for which benefit is claimed is over pensionable age under the legislation of the United Kingdom, but, in lieu thereof, the following provisions of this Article shall apply.

(2) Where such a person has not retired from regular employment under the legislation of the United Kingdom, and he would, had he been in the United Kingdom, have been entitled to sickness benefit under that legislation (calculated by reference to the notional rate of his retirement pension), he shall be entitled by virtue of this Article, to disability benefit under the legislation of the Republic of Ireland at whichever is the lower of the two following rates, that is to say—

(a) the full appropriate rate of disability benefit under the legislation of the Republic of Ireland; or

(b) the rate of the sickness benefit to which he would have been entitled under the legislation of the United Kingdom.

(3) Save as provided in the foregoing paragraph, such a person shall not be entitled to disability benefit under the legislation of the Republic of Ireland by virtue either of this Article or of the relevant reciprocal provisions.

(4) In this Article, "the relevant reciprocal provisions" means the provisions in any reciprocal agreement made between the Contracting Parties or the competent authorities of the two countries which provides for the taking into account, for the purpose of sickness or disability benefit under the legislation of one country, of insurance or contributions under the legislation of the other country.

ARTICLE 12

For the purposes of a claim to pension under the Old Age Pensions Acts, 1908 to 1965, or the Widows' and Orphans' Pensions Acts, 1935 to 1965, by a person resident in the Republic of Ireland, a British war pension shall be treated as if it were a pension or allowance under the Army Pensions Acts, 1923 to 1964, in the application of Rule 1 (II) (g) of the Rules as to Calculation of Means in the Seventh Schedule to the Social Welfare Act, 1952.

ARTICLE 13

Any claim for benefit, notice or appeal made or given to the competent authority of one country may, at the discretion of the competent authority of the other country, be treated as a claim, notice or appeal made or given to that authority under the legislation of that other country.

ARTICLE 14

Such financial adjustments between the Funds of the two countries as may be agreed from time to time in connection with this Agreement shall be made by the competent authorities.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed the present Agreement.

Done in duplicate at Dublin this 28th day of February, nineteen hundred and sixty-six.

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

GEOFROY TORY

For the Government of the Republic of Ireland:

CAOIMHGHÍN O BEOLÁIN

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