

**AGREEMENT BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF JAMAICA
WITH RESPECT TO SOCIAL SECURITY**

***THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF JAMAICA***

RESOLVED to co-operate in the field of social security,

HAVE DECIDED to conclude an agreement for this purpose, and

HAVE AGREED AS FOLLOWS:

PART I GENERAL PROVISIONS

Article I

1. For the purpose of this Agreement, unless the context otherwise requires:
 - (a) “competent authority” means, in relation to Jamaica, the Minister responsible for National Insurance and, in relation to Canada, the Minister or Ministers of the Crown responsible for the administration of the laws specified in Article II 1.(b);
 - (b) “territory” means, in relation to Jamaica, the territory of Jamaica and, in relation to Canada, the territory of Canada;
 - (c) “legislation” means the legislation described in Article II;
 - (d) “competent institution” means, in relation to Jamaica, the competent authority or any body or institution to whom the functions related to this Agreement may be transferred and, in relation to Canada, the competent authority;
 - (e) “credited period” means a period of contribution, paid or credited, employment or residence used to acquire a right to a benefit under the legislation of either Party. This term also designates, in relation to Canada, any equivalent period during which a disability pension is payable under the *Canada Pension Plan*;
 - (f) “Government employment” includes, in relation to Jamaica, employment in the service of the Government of Jamaica or in the service of any statutory corporation of Jamaica or company registered under the Company's Act of Jamaica, being a company in which the Government of Jamaica or an agency of the Government of Jamaica holds not less than fifty-one percent of the voting shares and, in relation to Canada, service in the employment of the Government of Canada or a Province of Canada or a Canadian municipality;
 - (g) “pension”, “allowance” or “benefit” includes any supplements or increases applicable to them;

- (h) “old age benefit” means, in relation to Jamaica, an old age pension, including any wage-related increase, under the *National Insurance Act* of Jamaica and, in relation to Canada, an old age pension under the *Old Age Security Act* excluding any income tested supplement and the spouse's allowance;
 - (i) “Spouse's Allowance” means, in relation to Jamaica, the increase to an old age pension or an invalidity pension for a dependent spouse and, in relation to Canada, the benefit payable to the spouse of a pensioner and includes the pension equivalent and the guaranteed income supplement equivalent under the *Old Age Security Act*;
 - (j) “survivor's benefit” means, in relation to Jamaica, the pension payable, including any wage-related increase, to a widow or widower under the *National Insurance Act* of Jamaica and, in relation to Canada, a survivor's pension payable to the surviving spouse under the *Canada Pension Plan*;
 - (k) “invalidity benefit” means, in relation to Jamaica, an invalidity pension, including any wage-related increase, payable under the *National Insurance Act* of Jamaica and, in relation to Canada, a disability pension payable under *the Canada Pension Plan*;
 - (l) “children's benefit” means an orphan's benefit or a special child's benefit payable under the *National Insurance Act* of Jamaica, and, in relation to Canada, an orphan's benefit or a disabled contributor's child's benefit payable under the *Canada Pension Plan*;
 - (m) “death benefit” means, in relation to Jamaica, the funeral grant, payable in a lump sum under the *National Insurance Act* of Jamaica and, in relation to Canada, the death benefit payable in a lump sum under the *Canada Pension Plan*.
2. Any term that is not defined in this Article has the meaning assigned to it in the applicable legislation.

Article II

1. The legislation to which this Agreement applies is:
- (a) in relation to Jamaica, the *National Insurance Act* and regulations made thereunder, as they apply to:
 - (i) old age benefits,

- (ii) invalidity benefits,
 - (iii) widow's or widower's benefits,
 - (iv) orphan's benefits,
 - (v) special child's benefits,
 - (vi) funeral grants;
 - (b) in relation to Canada:
 - (i) the *Old Age Security Act* and regulations made thereunder, and
 - (ii) the *Canada Pension Plan* and regulations made thereunder.
2. This Agreement applies or shall apply to all Acts or regulations which have amended, consolidated or extended, or shall amend, consolidate or extend the legislation listed in paragraph 1.
 3. This Agreement shall apply to Acts or regulations which extend the existing plans to other categories of beneficiaries, subject to the concurrence of the two Parties.
 4. Provincial social security legislation may be dealt with in arrangements as specified in Article XX.

Article III

1. This Agreement applies to persons who are, or have been, subject to the legislation referred to in Article II, and to their dependants and survivors, as specified by the legislation of either Party.
2. Subject to this Agreement, persons described in the preceding paragraph, regardless of their nationality, are subject to the legislation of one Party and are eligible for benefits under the same conditions as the citizens of that Party.

Article IV

1. Subject to the provisions of Articles VIII, IX, X and XI of this Agreement, the pensions, benefits, annuities and death benefits acquired under the legislation of one of the Parties shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason only of the fact that the beneficiary resides in the territory of the other Party, and they shall be payable in the territory of the other Party.
2. Where a grant is payable under the *National Insurance Act* of Jamaica but eligibility for a pension can be established pursuant to Articles VIII, IX, X and XI of this Agreement, such pension shall be paid in lieu of the grant.

Article V

Any pension, benefit, annuity or death benefit payable under this Agreement by one Party in the territory of the other is also payable in the territory of a third State.

PART II PROVISIONS DETERMINING THE LEGISLATION APPLICABLE

Article VI

1. Subject to the following provisions of this Article, an employed person who works in the territory of one of the Parties shall, in respect of that work, be subject only to the legislation of that Party.
2. An employed person who is covered under the legislation of one of the Parties and who performs services in the territory of the other Party for the same employer shall, in respect of those services, be subject only to the legislation of the former Party as though those services were performed in its territory. In the case of an assignment, this coverage may not be maintained for more than 24 months without the prior consent of the competent authorities of both Parties.
3. A person who, but for this Article, would be subject to the *Canada Pension Plan* as well as to the Legislation of Jamaica in respect of employment as a member of the crew of a ship or aircraft shall, in respect of that employment, be subject only to the legislation of Jamaica if he is a resident of Jamaica and only to the *Canada Pension Plan* in any other case.

4. An employed person shall, in respect of the duties of a government employment performed in the territory of the other Party, be subject to the legislation of the latter Party only if he is a national thereof or if he ordinarily resides in its territory. In the latter case, he may, however, elect to be subject only to the legislation of the former Party if he is a national thereof.
5. The competent authorities of the two Parties may, by common agreement, modify the application of the provisions of this Article with respect to any persons or categories of persons.
6. Transitional rules for the application of this Article are provided in the administrative arrangement.

Article VII

1. Subject to paragraph 2, where, under the terms of this Part, a person other than a person referred to in Article VI 3 and 5, is subject to the legislation of Canada or the comprehensive pension plan of a province, during any period of residence in the territory of Jamaica, that period of residence shall, in respect of that person, his spouse and dependants who reside with him and do not occupy employment during that period, be treated as a period of residence in Canada for the purposes of the *Old Age Security Act*.
2. Any period during which a spouse or a dependent referred to in paragraph 1 is subject, by reason of employment, to the legislation of Jamaica, shall not be treated as a period of residence in Canada for the purposes of the *Old Age Security Act*.
3. Subject to paragraphs 4 and 5, where, under the terms of this Part, a person other than a person referred to in Article VI 3 and 5, is subject to the legislation of Jamaica during any period of residence in Canada, that period of residence shall not be treated as residence in Canada for the purposes of the *Old Age Security Act*, in respect of that person, his spouse and dependants who reside with him and are not employed during that period.
4. Periods during which the spouse or dependent referred to in paragraph 3 is contributing to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada as a result of employment shall be treated as periods of residence in Canada for the purposes of the *Old Age Security Act*.

5. If a person referred to in paragraph 3 also becomes subject to the *Canada Pension Plan* or the comprehensive pension plan of a province of Canada, by virtue of occupying simultaneously more than one employment, such period of employment shall not be treated as a period of residence for the purposes of the *Old Age Security Act*.

PART III PROVISIONS CONCERNING BENEFITS

CHAPTER 1 OLD AGE BENEFIT

Article VIII

1.
 - (a) If a person is entitled to an old age benefit under the legislation of Jamaica, without recourse to the following provisions of this Article, the benefit payable under the legislation of Jamaica shall be payable in the territory of Canada.
 - (b) If a person is entitled to an old age benefit under the *Old Age Security Act* of Canada, without recourse to the following provisions of this Article, this benefit shall be payable in the territory of Jamaica if that person has accumulated, in all, under that Act at least twenty years of residence in Canada.
 - (c) If a person is entitled to an old age benefit under the rules set out in subsections 3(1)(a) and (b) of the *Old Age Security Act*, without recourse to the following provisions of this Article, but has not accumulated twenty years of residence in Canada, a partial benefit shall be payable to him outside the territory of Canada if the periods of residence in the territory of the two Parties when totalized according to the rules set out in paragraph 4(a) of this Article, represent at least twenty years. The amount of old age benefit payable shall, in this case, be calculated in accordance with the principles governing the payment of the partial pension payable, according to subsections 3(1.1) to 3(1.4) inclusive of the *Old Age Security Act*.

- (d) If a person is entitled to a partial pension according to the rules in subsections 3(1.1) to 3(1.4) inclusive of the *Old Age Security Act*, without recourse to the following provisions of this Article, the partial pension shall be payable outside the territory of Canada if the periods of residence in the territory of the two Parties when totalized according to the rules set out in paragraph 4(a) of this Article equal at least twenty years.
2. Notwithstanding any other provision of this Agreement, subsection 3(1) or the *Old Age Security Act* shall not apply to cases set out in paragraphs 3 to 6 of the present Article.
3. If a person is not entitled to an old age benefit on the basis of the periods credited under the legislation of one of the Parties, entitlement to that benefit shall be determined by totalizing these periods and those stipulated in the following paragraph of this Article, provided that these periods do not overlap.
4. (a) For purposes of establishing entitlement to an old age benefit payable by Canada under paragraph 5 of this Article, residence in the territory of both Canada and Jamaica, beginning on or after January 1, 1966 and after the age specified and determined in the administrative arrangement with respect to the legislation of Canada, shall be counted as residence in the territory of Canada.
- (b) For purposes of establishing entitlement to an old age benefit payable by Jamaica under paragraph 6 of this Article,
- (i) a contribution which has been made to the *Canada Pension Plan* for the year 1966 shall be accepted as 39 weeks of contributions under the legislation of Jamaica;
- (ii) a year in which a contribution has been made to the *Canada Pension Plan*, or in which a disability pension is payable thereunder, commencing on or after January 1, 1967, shall be accepted as 52 weeks of contribution under the legislation of Jamaica, but where an event occurs during that year which gives rise to a claim under the legislation of either Party, only the number of weeks preceding that event shall be accepted as weeks of contributions under the legislation of Jamaica;
- (iii) a week commencing on or after April 4, 1966 which would be a week of residence for the purposes of the *Old Age Security Act* and in relation to which no contribution has been made under the *Canada Pension Plan* shall be accepted as a week of contributions under the legislation of Jamaica.

5. The competent institution of Canada shall calculate the amount of its old age benefit at the rate of 1/40th of the full pension for each year of residence in Canada which is recognized as such in subparagraph 4(a) of this Article or deemed as such under Article VII of this Agreement.
6. The competent institution of Jamaica shall calculate the flat-rate portion of its old age benefit in accordance with Article X 5(b) and (c) of this Agreement. The wage-related portion of its old age benefit will be calculated under the terms of the *National Insurance Act* of Jamaica.
7. Notwithstanding any other provision of this Agreement, where the total credited periods is not equal to at least ten years, Canada will not be liable to pay any old age benefit under this Article, and when this period is not equal to at least twenty years, Canada will not be liable to pay any old age benefit by virtue of this Article outside of its territory.
8. Subject to the provisions of paragraph 7, any benefit payable by one Party under this Article shall be paid in the territory of the other Party.

CHAPTER 2 SPOUSE'S ALLOWANCE

Article IX

1. The legislation of Canada applicable in respect of the Spouse's Allowance under this Article shall, notwithstanding any other provision of this Agreement, be the *Old Age Security Act* excepting subsection 17.1(1) of that Act.
2. If a person is not entitled to the Spouse's Allowance because he has not satisfied the residence requirements under the legislation of Canada, then, provided that his periods of residence in the territory of each of the two Parties, when totalized in accordance with the rules set out in Article VIII 4(a) equal at least ten years, Canada shall pay to that person an amount of Spouse's Allowance, calculated in conformity with the legislation of Canada.
3. The Spouse's Allowance is payable only in the territory of Canada.
4. The Spouse's Allowance payable by Jamaica is the increase to an old age pension or an invalidity pension for a dependent spouse, as defined under Article I 1.(i) of this Agreement.

CHAPTER 3
SURVIVOR'S BENEFIT, INVALIDITY BENEFIT,
CHILDREN'S BENEFIT AND DEATH BENEFIT

Article X

1. The provisions of this Article shall apply to a survivor's benefit, invalidity benefit, children's benefit and death benefit to the extent that the nature of the benefit may require.
2. If a person is entitled to a benefit on the basis of the periods credited under the legislation of one Party without recourse to the provisions of the succeeding paragraphs of this Article, the benefit shall be payable in the territory of the other Party.
3. If a person is not entitled to a benefit solely on the basis of the periods credited under the legislation of one of the Parties, entitlement to the benefit shall be determined by totalizing the credited periods in accordance with the provisions of the succeeding paragraphs of this Article. For the purposes of survivor's benefits, children's benefits and death benefits only, any reference in this Article to a credited period shall be construed as applying to the person by virtue of whose contributions a benefit is being claimed.
4.
 - (a) For the purposes of establishing entitlement to a benefit payable by Canada under paragraph 6 of this Article, a year in respect of which contributions were made under the legislation of Jamaica for at least 13 weeks shall be accepted as a year for which contributions have been made under the *Canada Pension Plan*.
 - (b) The provisions of Article VIII 4(b) shall apply for the purpose of establishing entitlement to any benefit payable by Jamaica under paragraph 5 of this Article.
5.
 - (a) The competent institution of Jamaica shall calculate the flat-rate portion of its benefits in accordance with subparagraphs (b) and (c) below. The wage-related portion of these benefits will be calculated under the terms of the *National Insurance Act* of Jamaica.
 - (b) The amount of flat-rate benefit payable by Jamaica is the amount obtained by multiplying:

- (i) the amount of flat-rate benefit arrived at by dividing the total weekly contributions, paid or credited under the *National Insurance Act* of Jamaica, by the total number of years in the contributory period
 - by
 - (ii) the ratio that the total number of weekly contributions, paid or credited, under the *National Insurance Act* of Jamaica, represent in relation to the total of those contributions and of only those periods credited under the legislation of Canada necessary to satisfy the minimum requirements for entitlement.
- (c) Where the yearly average of contributions, as determined under the provisions of paragraph 5(b)(i) of this Article, is less than the required minimum for payment of a flat-rate benefit, the amount of benefit payable will be determined:
 - (i) by multiplying the minimum flat-rate benefit payable under the Act by the ratio that the total number of weekly contributions, paid or credited, represent in relation to the total of those contributions and of only those periods credited under the legislation of Canada necessary to satisfy the required yearly average of contributions; and
 - (ii) where the total number of weekly contributions is less than the required minimum, by multiplying the product obtained in clause (i) of this subparagraph by the ratio described in paragraph 5(b)(ii) of this Article.
- 6.
 - (a) The competent institution of Canada shall calculate the earnings-related portion of its benefits directly and exclusively on the basis of the periods of coverage completed under the *Canada Pension Plan*.
 - (b) The amount of the flat-rate benefit payable by Canada is the amount obtained by multiplying:
 - (i) the amount of the flat-rate benefit determined under the provisions of the *Canada Pension Plan*
 - by

- (ii) the ratio that the periods of contributions to the *Canada Pension Plan* represent in relation to the total of the periods of contributions to the *Canada Pension Plan* and of only those periods credited under the legislation of Jamaica required to satisfy the minimum requirements for entitlement under the *Canada Pension Plan*.
- 7. Any benefit payable by one Party under this Article shall be paid in the territory of the other Party.

CHAPTER 4 GENERAL PROVISIONS

Article XI

1. In the event of totalization for a benefit under the provisions of Articles VIII, IX and X, if the total duration of the periods completed under the legislation of one Party is not one year, the competent institution or authority of that Party shall not be required to award benefits in respect of those periods by virtue of this Agreement.
2. These periods shall, however, be taken into consideration by the competent institution or authority of the other Party for the establishment of entitlement to the benefits of the Party through totalization, where the total periods paid or credited under the legislation of that Party is one year or more.

CHAPTER 5 VOLUNTARY CONTRIBUTIONS

Article XII

If a person is liable to pay compulsory contributions for any period under the legislation described in Article II 1(b)(ii), he shall not pay at any time, voluntary contributions for that period under the legislation of Jamaica. In any case, subsequent coverage under the legislation described in Article II 1(b)(ii) will be cause for termination of such voluntary contributions.

PART IV MISCELLANEOUS PROVISIONS

Article XIII

1. A general administrative arrangement, agreed to by the competent authorities of the two Parties, shall set out as required the conditions under which this Agreement shall be implemented.
2. The liaison agencies of the two Parties shall be designated in this arrangement.

Article XIV

1. The competent authorities and the institutions responsible for the application of this Agreement:
 - (a) shall communicate to each other any information necessary in respect of the application of this Agreement;
 - (b) shall lend their good offices and furnish assistance free of charge to one another with regard to any matter relating to the application of this Agreement;
 - (c) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation insofar as these changes affect the application of this Agreement.
2. Unless disclosure is required under the national statutes of a Party, information about an individual which is transmitted in accordance with the Agreement to that Party by the other Party is confidential and shall be used exclusively for the purposes of implementing this Agreement.

Article XV

Any exemption from, or reduction of charges provided for in the legislation of one Party in connection with the issuing of any certificate or document required to be produced for the application of that legislation, shall be extended to certificates or documents required to be produced for the application of the legislation of the other Party.

Article XVI

Any claim, notice or appeal which should, for the purposes of the legislation of one of the Parties, have been presented within a prescribed period to a competent authority or institution of that Party responsible for the application of this Agreement, but which is in fact presented within the same period to the corresponding authority or institution of the other Party, shall be treated as if it had been presented to the authority or institution of the former Party. In such cases, the authority or institution of the latter Party shall, as soon as possible, arrange for the claim, notice or appeal to be sent to the authority or institution of the former Party.

Article XVII

For application of this Agreement, the competent authorities and institutions of the two Parties may communicate directly with one another in any of the official languages of either Party.

Article XVIII

The competent authorities of the two Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement, according to its spirit and fundamental principles.

Article XIX

1. In the event of the termination of this Agreement, any right acquired by a person shall be maintained and negotiations shall be take place for the settlement of any rights then in course of acquisition by virtue of those provisions.
2. No provision of this Agreement shall confer any right to receive a pension, allowance or benefit for a period before the date of the entry into force of the Agreement.
3. Except where otherwise provided in this Agreement, any credited period established before the date of entry into force of the Agreement shall be taken into account for the purpose of determining the right to benefits under this Agreement.

4. Subject to provisions of paragraphs 1, 2 and 3 of this Article, a pension, allowance or benefit, other than a death benefit, shall be payable under this Agreement in respect of events which happened before the date of entry into force of this Agreement.
5. Where, under the *National Insurance Act* of Jamaica, a grant, other than a death benefit, was paid in respect of an event which happened before the date of entry into force of this Agreement and, where subsequent entitlement to a pension is determined under Articles VIII, IX and X of this Agreement, the competent institution of Jamaica, shall deduct from any benefit payable in the form of a pension any amount previously paid in the form of a grant.

Article XX

The competent authority of Jamaica and the competent authorities of the provinces of Canada may conclude understandings concerning any social security legislation within provincial jurisdiction insofar as those understandings are not inconsistent with the provisions of this Agreement.

Article XXI

1. This Agreement shall enter into force, after the conclusion of the general administrative arrangement, on the first day of the second month following the date of exchange of the instruments of ratification.
2. This Agreement shall remain in force without any limitation on its duration. It may be denounced by one of the two Parties giving twelve months' notice in writing to the other.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective governments, have signed this Agreement.

DONE in two copies at Kingston, this 10th day of January, 1983, in the English and French languages, each version being equally authentic.

FOR THE GOVERNMENT OF CANADA

Monique Bégin

FOR THE GOVERNMENT OF JAMAICA

Neville Lewis