

**AGREEMENT ON SOCIAL SECURITY
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF NEW ZEALAND**

***THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF NEW ZEALAND,***

hereinafter referred to as "the Parties",

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 *Definitions*

1. For the purposes of this Agreement:

"benefit" means, as regards a Party, a benefit for which provision is made in the legislation of that Party, and includes any additional amount, increase or supplement that is payable, in addition to that benefit, to or in respect of a person who qualifies for that additional amount, increase or supplement under the legislation of that Party;

"Canadian creditable period" means, as regards a person, a period of residence or contributions which can be used to acquire the right to a benefit under the legislation of Canada, and includes a period during which a disability pension is payable under the *Canada Pension Plan*;

"competent authority" means, as regards Canada, the Minister of Human Resources Development; and, as regards New Zealand, the Director-General of Social Welfare or an authorised representative of the Director-General;

"Government of Canada" means the Government in its capacity as representative of Her Majesty the Queen in right of Canada;

"institution" means, as regards Canada, the competent authority; and, as regards New Zealand, an institution which is responsible for the application of this Agreement;

"legislation" means, as regards a Party, the laws and regulations specified in Article II(1) with respect to that Party;

"month" means, as regards New Zealand, a calendar month except where days are aggregated in which case a month means 30 days;

"New Zealand" means New Zealand only and not the Cook Islands, Niue and Tokelau;

"residence" means, as regards New Zealand, a period of ordinary residence as defined in the legislation of New Zealand.

2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

Article II

Legislation to Which the Agreement Applies

1. This Agreement shall apply to the following legislation:
 - (a) with respect to Canada:
 - (i) the *Old Age Security Act* and the regulations made thereunder, and
 - (ii) the *Canada Pension Plan* and the regulations made thereunder;
 - (b) with respect to New Zealand:

the *Social Security Act 1964* and the *Social Welfare (Transitional Provisions) Act 1990* in so far as these Acts provide for or apply to:

 - (i) New Zealand superannuation;
 - (ii) invalids benefits;
 - (iii) widows benefits;
 - (iv) domestic purposes benefits paid to widowers; and
 - (v) veteran's pensions.
2. Subject to paragraph 3, this Agreement shall also apply to the laws and regulations which amend, supplement, consolidate or supersede the legislation specified in paragraph 1.
3. This Agreement shall apply to laws and regulations which extend the legislation of a Party to new categories of beneficiaries or to new benefits unless an objection on the part of that Party has been communicated to the other Party not later than 3 months following the entry into force of such laws and regulations.

Article III
Persons to Whom the Agreement Applies

This Agreement shall apply to any person who has completed a creditable period or a period of residence under the legislation of either Party, and to the dependants and survivors of such a person within the meaning of the applicable legislation of either Party.

Article IV
Equality of Treatment

All persons to whom this Agreement applies shall be treated equally by a Party in regard to rights and obligations which arise under the legislation of that Party or as a result of this Agreement.

PART II
PROVISIONS RELATING TO NEW ZEALAND BENEFITS

Article V
Residence in Canada

1. If a person would be entitled to receive a benefit under the legislation of New Zealand (including a person who would be entitled as a result of Article VI) except that he or she is not ordinarily resident in New Zealand on the date of application for that benefit, that person shall be deemed, for the purposes of that application, to be ordinarily resident in New Zealand on that date, provided that he or she:
 - (a) is ordinarily resident in Canada, and present either in Canada or New Zealand, on that date;
 - (b) has the intention of remaining ordinarily resident in Canada for at least 26 weeks; and
 - (c) has resided in New Zealand at any time in his or her life for a continuous period of at least one year since attaining the age of 20 years.

2. Subject to this Agreement, if a person is entitled to receive a benefit under the legislation of New Zealand (including a person who is entitled as a result of paragraph 1, or of Article VI, or of both) but payment of that benefit is conditional on presence in New Zealand, that person shall be deemed, for the purpose of the payment of that benefit, to be present in New Zealand, provided that he or she:
 - (a) is ordinarily resident in Canada, and present either in Canada or New Zealand; and
 - (b) has resided in New Zealand at any time in his or her life for a continuous period of at least one year since attaining the age of 20 years.

3. For the purposes of this Part:
 - (a) if a person who is ordinarily resident in Canada is temporarily absent from Canada for a period which does not exceed 26 weeks, the period of temporary absence from Canada shall not be considered as interrupting that person's ordinary residence in Canada;
 - (b) if a person who has been ordinarily resident in Canada is absent from Canada for a period which exceeds 26 weeks, that person shall cease to be considered ordinarily resident in Canada on the date of his or her departure from Canada; and
 - (c) if a person leaves New Zealand with the intention of becoming ordinarily resident in Canada for at least 26 weeks, and if that person begins to be ordinarily resident in Canada within 26 weeks of his or her departure from New Zealand, that person shall be deemed to have become ordinarily resident in Canada on the date of his or her departure from New Zealand.

4. If a person who is ordinarily resident in Canada reaches the age of entitlement to New Zealand superannuation or a veteran's pension, that person shall not be entitled to receive, or shall no longer be entitled to receive, as the case may be, an invalid's benefit, widows benefit or domestic purposes benefit paid to a widower.

5. For the purposes of this Agreement, a person who has not reached the age of entitlement for New Zealand superannuation shall not be deemed to be entitled or qualified to receive New Zealand superannuation or a veteran's pension.

Article VI

Totalisation in relation to New Zealand Benefits

1. In determining whether a person meets the residential qualifications for a benefit specified in the legislation of New Zealand, the institution of New Zealand shall:
 - (a) in the case of New Zealand superannuation or a veteran's pension, deem a Canadian creditable period accumulated by that person after attaining the age of 20 years to be a period during which that person was both resident and present in New Zealand; and
 - (b) in the case of an invalids benefit, a widows benefit or a domestic purposes benefit paid to a widower, deem a Canadian creditable period accumulated by that person under the *Canada Pension Plan* to be a period during which that person was both resident and present in New Zealand.

2. For the purposes of paragraph 1:
 - (a) if a period of residence in New Zealand and a Canadian creditable period coincide, the period of coincidence shall be taken into account only once as a period of residence in New Zealand;
 - (b) a Canadian creditable period accumulated under the *Old Age Security Act* which coincides with a Canadian creditable period accumulated under the *Canada Pension Plan* shall be taken into account only once.

3. In determining whether a person who is ordinarily resident in New Zealand or Canada is entitled to receive a widows benefit or a domestic purposes benefit paid to a widower, a dependent child of that person born in Canada shall be treated as though that child was born in New Zealand provided that:
 - (a) in the case of a widow, the child was conceived before the death of the person's last deceased spouse; and
 - (b) in the case of a widower, the child was born before the death of the person's last deceased spouse.

4. In determining whether a widow who is ordinarily resident in New Zealand or Canada is entitled to receive a widows benefit:
 - (a) that widow shall be deemed to have accumulated a Canadian creditable period for any period during which her last deceased spouse accumulated a Canadian creditable period under the *Canada Pension Plan*;

- (b) any period during which that widow and her last deceased spouse both accumulated Canadian creditable periods under the *Canada Pension Plan* shall be taken into account once only; and
- (c) a Canadian creditable period accumulated under the *Canada Pension Plan* by that widow's last deceased spouse shall be deemed to be a period during which that spouse was ordinarily resident in New Zealand for the purposes of determining the ordinary residence of that spouse.

Article VII
***Rate of New Zealand Superannuation
and Veteran's Pensions in Canada***

If a person who is ordinarily resident in Canada is entitled to receive New Zealand superannuation or a veteran's pension as a result of Article V, the amount of that benefit shall be calculated in accordance with the following formula:

$$\frac{\text{number of whole months residence in New Zealand}}{Y} \quad X \quad \text{maximum benefit rate}$$

where "Y" equals:

- 480 if the person was born before 1 April 1932;
- 492 if the person was born between 1 April 1932 and 30 June 1932;
- 495 if the person was born between 1 July 1932 and 30 September 1932;
- 498 if the person was born between 1 October 1932 and 31 December 1932;
- 501 if the person was born between 1 January 1933 and 31 March 1933;
- 504 if the person was born between 1 April 1933 and 30 June 1933;
- 507 if the person was born between 1 July 1933 and 30 September 1933;
- 510 if the person was born between 1 October 1933 and 31 December 1933;
- 513 if the person was born between 1 January 1934 and 31 March 1934;
- 516 if the person was born between 1 April 1934 and 30 June 1934;
- 519 if the person was born between 1 July 1934 and 30 September 1934;
- 522 if the person was born between 1 October 1934 and 30 December 1934;
- 525 if the person was born between 1 January 1935 and 31 March 1935;
- 528 if the person was born between 1 April 1935 and 30 June 1935;
- 531 if the person was born between 1 July 1935 and 30 September 1935;
- 534 if the person was born between 1 October 1935 and 31 December 1935;
- 537 if the person was born between 1 January 1936 and 31 March 1936;
- 540 if the person was born after 31 March 1936;

subject to the following provisions:

- (a) in determining the number of whole months residence in New Zealand, only residence after attaining the age of 20 years shall be taken into account;
- (b) all periods of residence in New Zealand since attaining the age of 20 years shall be aggregated;
- (c) the maximum benefit rate shall be:
 - (i) in the case of a single person, the maximum rate of benefit payable under the legislation of New Zealand to a single person who is not living alone; and,
 - (ii) in the case of a married person, the maximum rate of benefit payable under the legislation of New Zealand to a married person whose spouse also qualifies for New Zealand superannuation or a veteran's pension;
- (d) if a person who became or becomes ordinarily resident in Canada after 1 April 1990 was entitled to receive New Zealand superannuation or a veteran's pension at the date of departure from New Zealand and is entitled to receive that benefit as a result of Article V, but not as a result of Article VI, the amount of that benefit shall not be less than the amount that would be paid in the absence of this Agreement;
- (e) in no case shall the rate of benefit exceed 100%;
- (f) no account shall be taken of any benefit which is also payable under the *Old Age Security Act* of Canada, the *Canada Pension Plan* or any benefit or pension payable under the social security laws of a third party.

Article VIII

Rate of Widows Benefits, Domestic Purposes Benefits paid to Widowers and Invalids Benefits in Canada

If a person who is ordinarily resident in Canada is entitled to receive a widows benefit, a domestic purposes benefit paid to a widower or an invalids benefit as a result of Article V, the amount of that benefit shall be calculated in accordance with the following formula:

number of whole months residence
in New Zealand

300 months

X maximum benefit rate

subject to the following provisions:

- (a) in determining the number of whole months residence in New Zealand, only residence after attaining the age of 20 years shall be taken into account;
- (b) all periods of residence in New Zealand since attaining the age of 20 years shall be aggregated;
- (c) the maximum amount of benefit payable shall be the maximum rate of benefit which that person would be entitled to receive under the legislation of New Zealand; and
- (d) no account shall be taken of any benefit which is also payable under the *Canada Pension Plan* or any pension or benefit payable under the social security laws of a third party.

Article IX

Payment of Supplementary Benefits and Allowances

1. If a person who is ordinarily resident in New Zealand becomes entitled to receive a New Zealand benefit as a result of Article VI, the institution of New Zealand shall also pay to that person any supplementary benefit or allowance under the legislation of New Zealand for which that person is qualified.
2. If a person who is ordinarily resident in Canada becomes entitled to receive a New Zealand benefit as a result of this Agreement, the amount of that benefit shall not include any supplementary benefit or allowance which would be payable under the legislation of New Zealand if that person were ordinarily resident in New Zealand.

Article X
Residence in a Third State

A person who:

- (a) is ordinarily resident in New Zealand;
- (b) is entitled to receive a benefit solely through the application of the totalising provisions of Article VI; and
- (c) either:
 - (i) departs New Zealand with the intention of residing in a third State for a period which exceeds 26 weeks; or
 - (ii) resides in a third State for a period which exceeds 26 weeks;

shall not be entitled to receive New Zealand superannuation or a veteran's pension while outside New Zealand or Canada unless he or she is entitled to receive that benefit under a social security agreement which New Zealand has entered into with that third State.

PART III
PROVISIONS RELATING TO CANADIAN BENEFITS

Article XI
Totalisation in relation to Canadian Benefits

1. If a person is not entitled to the payment of a benefit under the legislation of Canada because he or she has not accumulated sufficient Canadian creditable periods, entitlement of that person to the payment of that benefit shall be determined by totalising these periods and those specified in paragraph 2, provided that the periods do not overlap.
2. (a) For purposes of determining entitlement to the payment of a benefit under the *Old Age Security Act*, a period of residence in New Zealand after attaining the age of 20 years shall be considered as a period of residence in Canada.

- (b) For purposes of determining entitlement to the payment of a benefit under the *Canada Pension Plan*, a calendar year which includes at least 6 months of residence in New Zealand after attaining the age of 18 years shall be considered as a year which is creditable under the *Canada Pension Plan*.

Article XII

Benefits Under the Old Age Security Act

1. If a person is entitled to the payment of a pension or a spouse's allowance solely through the application of the totalising provisions of Article XI, the institution of Canada shall calculate the amount of the pension or spouse's allowance payable to that person in conformity with the provisions of the *Old Age Security Act* governing the payment of a partial pension or a spouse's allowance, exclusively on the basis of the periods of residence in Canada which may be considered under that Act.
2. Paragraph 1 shall also apply to a person who is entitled to the payment of a pension in Canada but who has not resided in Canada for the minimum period required by the *Old Age Security Act* for entitlement to the payment of a pension outside Canada.
3. Notwithstanding any other provision of this Agreement:
 - (a) a benefit shall not be payable by virtue of this Agreement to a person who has not accumulated a period of residence in Canada of at least one year;
 - (b) the Old Age Security pension shall be paid to a person who is outside Canada only if that person's periods of residence in Canada and New Zealand, when totalised as provided in Article XI, are at least equal to the minimum period of residence in Canada required by the *Old Age Security Act* for entitlement to the payment of a pension outside Canada; and
 - (c) the spouse's allowance and the guaranteed income supplement shall be paid to a person who is outside Canada only to the extent permitted by the *Old Age Security Act*.

Article XIII
Benefits under the Canada Pension Plan

If a person is entitled to the payment of a benefit solely through the application of the totalising provisions of Article XI, the institution of Canada shall calculate the amount of benefit payable to that person in the following manner:

- (a) the earnings-related portion of the benefit shall be determined in conformity with the provisions of the *Canada Pension Plan*, exclusively on the basis of the pensionable earnings under that Plan; and
- (b) the flat-rate portion of the benefit shall be determined by multiplying:
 - (i) the amount of the flat-rate portion of the benefit determined in conformity with the provisions of the *Canada Pension Plan*
 - by
 - (ii) the fraction which represents the ratio of the periods of contributions to the *Canada Pension Plan* in relation to the minimum qualifying period required under that Plan to establish entitlement to that benefit, but in no case shall that fraction exceed the value of one.

PART IV
ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Article XIV
Administrative Arrangement

1. The competent authorities of the Parties shall establish, by means of an administrative arrangement, the measures necessary for the application of this Agreement.
2. The liaison agencies of the Parties shall be designated in that arrangement.

Article XV
Exchange of Information and Mutual Assistance

1. The competent authorities and institutions responsible for the application of this Agreement:
 - (a) shall, to the extent permitted by the legislation which they administer, communicate to each other any information necessary for the application of this Agreement;
 - (b) shall lend their good offices and furnish assistance to one another with regard to the determination or payment of any benefit under this Agreement, or the legislation to which this Agreement applies, as if the matter involved the application of their own legislation; and
 - (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 in so far as these changes affect the application of this Agreement.
2. The assistance referred to in subparagraph 1(b) shall be provided free of charge, subject to any provision contained in an administrative arrangement concluded pursuant to Article XIV for the reimbursement of certain types of expenses.
3. Unless disclosure is required under the laws of a Party, any information about an individual which is transmitted in accordance with this Agreement to that Party by the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.

Article XVI
Language of Communication

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

Article XVII
Submitting Applications, Notices or Appeals

1. Any application, notice or appeal concerning the determination or payment of a benefit under the legislation of a Party which should, for the purposes of that legislation, have been presented within a prescribed period to a competent authority or institution of that Party, but which is presented within the same period to an authority or institution of the other Party, shall be treated as if it had been presented to the competent authority or institution of the first Party.
2. The date of an application for a benefit under the legislation of a Party made after the entry into force of this Agreement shall be deemed to be the date of an application for the corresponding benefit under the legislation of the other Party, provided that the applicant:
 - (a) requests that it be considered an application under the legislation of the other Party; or
 - (b) provides information at the time of application indicating that a creditable period or a period of residence has been completed under the legislation of the other Party.
3. In any case to which paragraph 1 or 2 applies, the authority or institution to which the application, notice or appeal has been submitted shall transmit it without delay to the authority or institution of the other Party.

Article XVIII
Payment of Benefits

1. The institution of a Party may discharge its obligations under this Agreement in the currency of that Party or in any other freely convertible currency.
2. Benefits shall be paid to beneficiaries free from any deduction for administrative expenses that may be incurred by either Party in paying the benefits.
3. Should currency restrictions be introduced by either Party, the two Parties shall immediately and jointly take steps to safeguard transfers between their territories of any money required to implement this Agreement.

Article XIX
Resolution of Difficulties

1. The competent authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
2. The Parties shall consult promptly at the request of either Party concerning matters which have not been resolved by the competent authorities in accordance with paragraph 1.
3. If the dispute has not been settled within six months following the first consultation prescribed in paragraph 2 of this Article, it shall be submitted to an arbitral tribunal whose composition and procedure shall be agreed upon by the Parties. The arbitral tribunal shall settle the dispute according to the fundamental principles and in the spirit of this Agreement.

Article XX
Understandings with a Province of Canada

The relevant authority of New Zealand and a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada in so far as those understandings are not inconsistent with the provisions of this Agreement.

PART V
TRANSITIONAL AND FINAL PROVISIONS

Article XXI
Transitional Provisions

1. Any Canadian creditable period or period of residence in New Zealand completed before the date of entry into force of this Agreement shall be taken into account for the purpose of determining the right to a benefit under the Agreement.
2. No provision of this Agreement shall confer any right to receive payment of a benefit for a period before the date of entry into force of the Agreement.

3. Subject to paragraph 2, a benefit, other than a lump sum payment, shall be paid under this Agreement in respect of events which happened before the date of entry into force of the Agreement.

Article XXII

Review of Agreement

The Parties may agree at any time to review any of the provisions of this Agreement and, in such case, shall appoint a committee of experts to review and report to the competent authorities on the operation and effectiveness of the Agreement.

Article XXIII
Entry into Force and Termination

1. This Agreement shall enter into force on the first day of the fourth month following the month in which the Parties exchange notes through the diplomatic channel notifying each other that the last of such things has been done as is necessary to give this Agreement the force of law in Canada and in New Zealand.
2. Subject to paragraph 3, this Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other written notice through the diplomatic channel of the intention of that Party to terminate the Agreement.
3. In the event that this Agreement is terminated in accordance with paragraph 2, the Agreement shall continue to have effect in relation to all persons who as a result of this Agreement:
 - (a) at the date of termination, are in receipt of benefits; or
 - (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive benefits.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in two copies at Ottawa, this 9th day of April 1996, in the English and French languages, each text being equally authentic.

FOR THE GOVERNMENT OF CANADA

Douglas Young

FOR THE GOVERNMENT OF NEW ZEALAND

Peter Gresham