

AGREEMENT BETWEEN
AUSTRALIA
AND
THE HELLENIC REPUBLIC
ON SOCIAL SECURITY

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The Government of Australia and the Government of the Hellenic Republic (hereinafter “the Parties”),

Wishing to strengthen the existing friendly relations between the two countries,

and

Being desirous of regulating the relationship between their two countries with respect to social security benefits and coverage,

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1 Definitions

1. In this Agreement, unless the context otherwise requires:

“**benefit**” means, in relation to Australia, a benefit, pension or allowance for which provision is made in the legislation of Australia, and includes any additional amount, increase or supplement that is payable in addition to that benefit, pension or allowance to or in respect of a person who qualifies for that additional amount increase or supplement under the legislation of Australia but, does not include any benefit, payment or entitlement under the law concerning the superannuation guarantee; and, in relation to Hellas, the old age pension for which provision is made in the legislation of Hellas, and includes any additional amount, increase or supplements or readjustments that are payable in addition to the amount of the old age pension;

“**Competent Authority**” means, in relation to Australia, the Secretary to the Commonwealth Department responsible for the legislation specified in subparagraph 1(a)(i) of Article 2, except in relation to the application of Part II of the Agreement (including the application of other Parts of the Agreement as they affect the application of that Part) where it means the Commissioner of Taxation or an authorised representative of the Commissioner; and, in relation to Hellas, the Minister of Hellas, who has the competency of the social security systems referred to in subparagraph 1 (b) of Article 2;

“**Competent Institution**” means, in relation to Australia, the institution or agency which has the task of implementing the applicable Australian legislation; and in relation to Hellas, the social security institution which has the task of implementing the applicable Hellenic legislation which is defined in Article 2;

“legislation” means, in relation to Australia, the laws specified in subparagraph 1(a)(i) of Article 2 except in relation to the application of Part II of the Agreement (including the application of other Parts of the Agreement as they affect the application of that Part) where it means the laws specified in subparagraph 1(a)(ii) of Article 2; and, in relation to Hellas the laws which are specified in subparagraph 1(b) of Article 2;

“period of Australian working life residence” means, a period defined as such in the legislation of Australia but does not include any period deemed pursuant to Article 11 to be a period in which that person was an Australian resident;

“period of insurance” means, in relation to Hellas, each period of paid contributions which gives a right to an entitlement on the basis of Article 2 and each period which is recognized as such, according to this legislation; and, especially for OGA, a period of insurance is also a period of employment in the agricultural sector.

“territory” means, in relation to Australia, Australia as defined in the legislation of Australia; and, in relation to Hellas, Hellas as defined in the legislation of Hellas;

2. Unless the context otherwise requires, any term not defined in this Article shall have the meaning assigned to it in the legislation of either contracting Party or in the event of a conflict of meaning, by whichever of those laws is the more applicable to the circumstances of that person.

Article 2

Legislative Scope

1. Subject to paragraph 2, this Agreement shall apply to the following laws, as amended at the date of signature of this Agreement, and to any laws that subsequently amend, consolidate, supplement or replace them:
 - (a) in relation to Australia:
 - (i) the Acts forming the social security law in so far as the law provides for, applies to or affects age pension;
 - (ii) the law concerning the superannuation guarantee (which at the time of signature of this Agreement is contained in the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee (Administration) Regulations*);
 - (b) in relation to Hellas regarding the old age pension:
 - i. the general legislation of social insurance covering the employed and the equivalent to them.
 - ii. the legislation provided under the specific systems of social insurance covering all the categories of the employed.

- iii. the legislation provided under the system of social insurance covering the self employed.
- iv. the legislation covering the persons, who are insured under the OGA social security system (Organization of Agricultural Insurance).

This Agreement (other than Part II) shall not apply to the specific social security systems covering the civil servants and the merchant marines who are only subject to the provisions of Article 5 of this Agreement.

2. Unless otherwise provided in this Agreement, the legislation referred to in paragraph 1 of this Article shall not include treaties or other international agreements on social security that may be concluded between one contracting Party and a third party.
3. This Agreement shall apply to laws or regulations which extend the existing legislation of either Party to new categories of beneficiaries only if the two Parties so agree in a Protocol to this Agreement.

Article 3

Personal Scope

This Agreement shall apply to any person who:

- (a) is or has been an Australian resident; or
- (b) is or has been subject to the legislation of Hellas,

and, where applicable, to other persons in regard to the rights they derive from the person described above.

Article 4

Equality of Treatment

Subject to this Agreement and unless otherwise provided, all persons to whom this Agreement applies shall be treated equally by a Party in regard to rights and obligations regarding eligibility for and payment of benefits which arise whether directly under the legislation of that Party or by virtue of this Agreement.

Article 5

Export of Benefits

1. Benefits of one Party, when payable by virtue of this Agreement, shall be payable to persons who are residents of, or in, the territory of either Party.
2. In relation to Australia, any additional amount, increase or supplement that is payable in addition to a benefit under this Agreement, shall be payable outside the territory of

Australia only according to the provisions of the Acts forming the social security law.

3. In relation to Hellas, any additional amount, increase or supplement that is payable in addition to a benefit under this Agreement, shall be payable outside the territory of Hellas only according to the Hellenic legislation.

PART II

PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 6

Purpose of this Part

The purpose of this Part is to ensure that employers and employees who are subject to the legislation of Australia or Hellas do not have a double liability under the legislation of Australia and Hellas, in respect of the same work of an employee.

Article 7

Application of this Part

This Part only applies if an employee and/or the employer of the employee would, apart from this Part, be subject to the legislation of both Parties.

Article 8

Provisions related to the affiliation with Social Security and Superannuation Guarantee

1. Unless otherwise provided in this article, an employee working in the territory of one of the contracting Parties will be subject only, in respect of this work, to the legislation of that Party.
2. If an employee:
 - (a) is covered by the legislation of one contracting Party ('the first contracting Party');
 - (b) was sent, whether before, on or after the commencement of this Part, by the Government of the first contracting Party to work in the territory of the other contracting Party ('the second contracting Party');
 - (c) is working in the territory of the second contracting Party in the employment of the Government of the first contracting Party; and
 - (d) is not working permanently in the territory of the second contracting Party;

the employer of the employee and employee shall be subject only to the legislation of the first contracting Party in respect of the work performed after the entry into force of this Agreement and the remuneration paid for that work. For the purposes of this paragraph, the term “Government” includes in relation to Australia a political subdivision or local authority of Australia.

3. If a self-employed person:

- (a) is working in the territory of one contracting Party, he is subject to the legislation of this Party even if he has his residence in the territory of the other contracting Party.
- (b) is working as an employee in the territory of one contracting Party and at the same time as a self-employed person in the territory of the other contracting Party, he is subject to the legislation of that Party in whose territory he works as an employee.

4. If an employee:

- (a) is covered by the legislation of one contracting Party (‘the first contracting Party’);
- (b) was sent, whether before, on or after the entry into force of this Agreement, by an employer who is subject to the legislation of the first Party to work in the territory of the other contracting Party (‘the second contracting Party’);
- (c) is working in the territory of the second contracting Party in the employment of the employer or a related entity of that employer and a period of 4 years from the time the employee was sent to work in the territory of the second contracting Party has not elapsed; and
- (d) the employee is not working permanently in the territory of the second contracting Party;

the employer of the employee and the employee shall be subject only to the legislation of the first Party in respect of the work performed after the entry into force of this Agreement and the remuneration paid for that work.

5. For the purposes of subparagraph 4(c) a related entity is an entity of an employer if the entity and the employer are members of the same wholly or majority owned group.

6. The competent authorities of both contracting Parties may, after a common agreement, modify the implementation of the provisions of this Article with respect to any person or a category of persons.

Article 9

Diplomatic and Consular Relations

This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961, or the Vienna Convention on Consular Relations of 24 April 1963.

PART III

PROVISIONS RELATING TO AUSTRALIAN BENEFITS

Article 10

Residence or Presence in Hellas

Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for an Australian benefit except for not being an Australian resident and in Australia on the date on which the claim for that benefit is lodged, but:

- (a) is an Australian resident or a resident of Hellas; and
- (b) is in Australia, or in the territory of Hellas;

that person, so long as he or she has been an Australian resident at some time, shall be deemed, for the purpose of lodging that claim, to be an Australian resident and in Australia on that date.

Article 11

Totalisation for Australia

1. Where a person to whom this Agreement applies has claimed an Australian benefit under this Agreement and has accumulated:
 - (a) a period as an Australian resident that is less than the period required to qualify that person, on that ground, under the legislation of Australia for that benefit; and
 - (b) a period of Australian working life residence equal to or greater than the period identified in accordance with paragraph 4 for that person; and
 - (c) a period of insurance under the legislation of Hellas;

then, for the purposes of a claim for that Australian benefit, that period of insurance under the legislation of Hellas shall be deemed to be a period in which that person was an Australian resident, only for the purposes of meeting any minimum qualifying periods for that benefit set out in the legislation of Australia.

2. For the purposes of paragraph 1, where a person:
 - (a) has been an Australian resident for a continuous period which is less than the minimum continuous period required by the legislation of Australia for entitlement of that person to a benefit; and
 - (b) has accumulated a period of insurance under the legislation of Hellas in two or more separate periods that equals or exceeds in total the minimum period referred to in subparagraph (a);

the total of the periods of insurance under the legislation of Hellas shall be deemed to be one continuous period.

3. For the purposes of this Article, where a period by a person as an Australian resident and a period of insurance under the legislation of Hellas coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.
4. The minimum period of Australian working life residence to be taken into account for the purposes of paragraph 1 shall be as follows:
 - (a) for the purposes of an Australian benefit that is payable to a person who is not an Australian resident, the minimum period required shall be 12 months, of which at least six months must be continuous; and
 - (b) for the purposes of an Australian benefit that is payable to an Australian resident, there shall be no minimum period.
5. For the purpose of this Article, a period of insurance under the legislation of Hellas shall be deemed as a period as an Australian resident only if that period of insurance under the legislation of Hellas is certified by the Competent Institution of Hellas.

Article 12

Calculation of Australian Benefits

1. Subject to paragraphs 2, 3, 4 and 5, where an Australian benefit is payable to a person outside Australia only by virtue of this Agreement, the rate of that benefit shall be determined by:
 - a. calculating that person's income according to the legislation of Australia, including any benefit payable under the legislation of Hellas which that person or the partner of that person is entitled to receive, if applicable;
 - b. applying to the maximum rate of Australian benefit the relevant rate calculator set out in the legislation of Australia, using as the person's income the amount calculated under sub-paragraph (a); and
 - c. proportionalising, if applicable, the amount of benefit calculated under sub-paragraph (b) by multiplying that amount by the person's period of Australian

working life residence (up to a maximum of 300 months) over a denominator of 300 months (25 years).

2. Subject to paragraphs 3, 4 and 5, where an Australian benefit is payable to a person outside Australia only by virtue of this Agreement, and the person had ceased to be an Australian resident on the date of entry into force of this Agreement, the rate of that benefit shall be determined by:
 - a. calculating that person's income according to the legislation of Australia, including any benefit payable under the legislation of Hellas which that person or the partner of that person is entitled to receive, if applicable;
 - b. applying to the maximum rate of Australian benefit the relevant rate calculator set out in the legislation of Australia, using as the person's income the amount calculated under sub-paragraph (a); and
 - c. proportionalising, if applicable, the amount of benefit calculated under sub-paragraph (b) by multiplying that amount by the person's period of Australian working life residence (up to a maximum of 528 months) over a denominator of 528 months (44 years).
3. Where the rate of an Australian benefit is determined according to paragraph 2 and the person again becomes an Australian resident, the rate of benefit shall continue to be determined according to paragraph 2, subject to paragraph 7 where applicable, if the person subsequently leaves Australia within two years of the date the person again became an Australian resident.
4. The provisions in paragraphs 1, 2, and 5 shall continue to apply for 26 weeks where a person comes temporarily to Australia.
5. Where an Australian benefit is payable to a person outside Australia, whether by virtue of this Agreement or otherwise, the following payments under the legislation of Hellas shall be disregarded when assessing the income of that person:
 - Pensioners' Social Solidarity Benefit (EKAS);
 - Uninsured Aged Person's Pension (OGA);
 - benefits for or in respect of dependent children who satisfy the definition of a dependent child under Australian domestic law, but for residence requirements.
6. Subject to paragraph 7, where an Australian benefit is payable only by virtue of this Agreement to a person who is in Australia, the rate of that benefit shall be determined by:
 - (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation any benefit under the legislation of Hellas which that person or the partner of that person is entitled to receive if applicable; and
 - (b) deducting the amount of the benefit under the legislation of Hellas which that person is entitled to receive from the maximum rate of that Australian benefit; and

- (c) applying to the remaining benefit obtained under subparagraph (b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under subparagraph (a).
- 7. Paragraph 6 shall continue to apply for 26 weeks where a person departs temporarily from Australia.
- 8. Where a member of a couple is, or both that person and his or her partner are, entitled to a benefit or benefits under the legislation of Hellas each of them shall be deemed, for the purposes of this Article and of the legislation of Australia, to be in receipt of one half of either the amount of that benefit or the total of both of those benefits, as the case may be.

PART IV

PROVISIONS RELATED TO BENEFITS UNDER THE HELLENIC LEGISLATION

Article 13

Totalisation of insurance periods, residence and calculation of benefits

1. If a person is entitled to an Hellenic benefit without recourse to the provisions of paragraph 2 and 3 of this Article the amount of the benefit is determined according to the Hellenic legislation on the basis of insurance periods completed under this legislation.
2. Where no entitlement to Hellenic benefit exists on the basis of Hellenic insurance periods, the periods of residence completed under Australian legislation shall be totalized for the acquisition of the rights to old age pension under the Hellenic legislation, provided that these periods do not overlap.
3. Where periods of residence completed under Australian legislation are taken into account for the acquisition of the right according to the previous paragraph the benefit payable under the Hellenic legislation is determined as follows:
 - a. The competent Institution first calculates the amount of the benefit which would have been awarded to the person concerned if the periods completed under Australian legislation and totalized according to the previous paragraph had been completed under its own legislation for the acquisition of the right to old age pension.
 - b. The competent Institution in determining the amount of the benefit takes into consideration the salary (earnings), income or contributions which have been paid during the period completed under the Hellenic legislation.
 - c. where the amount determined as above is less than the minimum benefit provided by the Hellenic legislation then the minimum amount shall substitute the amount determined as above.

4. On the basis of the amount calculated according to the previous paragraph the competent institution determines the amount of the partial benefit payable by it, according to ratio between the length of the periods of insurance completed under its own legislation and the total duration of the periods of insurance and residence which have been taken into account.
5. If the total length of the periods of insurance which shall be taken into account in accordance with Hellenic legislation for the calculation of the benefit does not attain 300 days (12 months) and provided that no entitlement to a benefit according to the Hellenic legislation exists without applying the previous paragraphs no benefit shall be paid out according to this legislation.
6. Only Hellenic insurance periods are taken into account when establishing the kind of benefit and the competent institution.
7. For the purposes of this Article
 - (a) one (1) month of residence in Australia is equivalent to 25 days of insurance in Hellas and
 - (b) one (1) year of residence in Australia is equivalent to 300 days of insurance in Hellas.
8. For the purpose of this Article, a period of residence in Australia shall be deemed as a period of insurance in Hellas only if that period of residence under the legislation of Australia is certified by the Competent Institution of Australia.

PART V

MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

Article 14

Lodgement of Documents

1. A claim, notice or appeal concerning a benefit, whether payable by virtue of this Agreement or otherwise, may be lodged in the territory of either Party in accordance with the Administrative Arrangement made pursuant to Article 18 at any time after the Agreement enters into force.
2. For the purposes of determining the right to a benefit, the date on which a claim, notice or appeal referred to in paragraph 1 is lodged with the Competent Institution of one Party shall be considered as the date of lodgement of that document with the Competent Institution of the other Party. The Competent Institution with which a claim, notice or appeal is lodged shall refer it without delay and, in any case, within 12 months to the Competent Institution of the other Party.
3. A claim for a benefit from one Party shall be considered as a claim for the corresponding

benefit from the other Party so long as the claimant has indicated in that claim that there is, or there was, an affiliation with the social security system of that other Party and provided the other Party receives this request within 12 months.

4. The reference in paragraph 1 to an appeal document is a reference to a document concerning an appeal that may be made to an administrative body established by, or administratively for the purposes of, the respective legislation.

Article 15

Payment of Benefits

1. The commencement date for payment of a benefit payable by virtue of this Agreement shall be determined in accordance with the legislation of the Party concerned but in no case shall that date be a date earlier than the date on which this Agreement enters into force.
2. If a Party imposes legal or administrative restrictions on the transfer of currency outside of its territory, that Party shall implement measures as soon as practicable to guarantee the rights to payment and delivery of benefits payable under the legislation of that Party or by virtue of this Agreement. The measures shall operate retrospectively to the time when the restrictions were imposed.
3. While the measures in paragraph 2 are being implemented, the Party not imposing the restrictions set out in paragraph 2 may impose restrictions on the payment of its benefits paid under the Agreement in the territory of the other Party, until the other Party has lifted all such restrictions. On the lifting of the restrictions by the other Party and the payment of arrears by that other Party then the first Party shall also pay arrears of its benefits in relation to the entire time during which the first Party's restrictions were imposed.
4. Where a Party has imposed legal or administrative restrictions on the transfer of its currency outside of its territory as mentioned in paragraph 2, it shall inform the other Party of those restrictions within one calendar month of their imposition and shall implement the measures described in that paragraph within 3 months of the imposition of the restrictions. A failure to comply with either requirement may be treated by the other Party as a material breach of the Agreement for the purposes of Article 60 of the Vienna Convention on the Law of Treaties of 23 May 1969.
5. A benefit payable by a Party by virtue of this Agreement shall be paid by that Party, whether the beneficiary is in the territory of that Party or the other Party, without deduction for government administrative fees and charges for processing and paying that benefit.
6. Any exemption granted in the territory of one of the Parties from stamp duty, notarial or registration fees in respect of certificates and documents required to be submitted to the Competent Authorities and Competent Institutions in the same territory, shall also apply to certificates and documents which, for the purposes of this Agreement, have to be

submitted to the Competent Authorities and Competent Institutions in the territory of the other Party. Documents and certificates required to be produced for the purpose of this Agreement shall be exempt from authentication by diplomatic and consular authorities.

Article 16

Recovery of overpayments

1. Where:
 - (a) an amount of arrears of benefit is paid or payable by a Party; and
 - (b) for all or part of that period, the other Party has paid to that person a benefit under its legislation; and
 - (c) the amount of the benefit paid by the other party would have been reduced had the benefit paid or payable by the first Party been paid during that period;
 - (d) then the amount that would not have been paid by the other Party had the benefit described in subparagraph (a) been paid on a periodical basis throughout that past period, shall be a debt due by that person to the other Party and may be recovered by that Party.
2. Where the first Party has not yet paid the arrears of benefit described in subparagraph 1(a) to the person, that Party shall, at the request of the other Party, pay the amount of the benefit necessary to meet the debt described in subparagraph 1 (d) to the other Party and shall pay any remainder to the person.
3. The Competent Institution receiving a request under paragraph 2 shall transfer the amount of the debt to the Competent Institution making the request.

Article 17

Exchange of Information and Mutual Assistance

1. The Competent Authorities and Competent Institutions responsible for the application of this Agreement shall to the extent permitted by their national laws:
 - (a) communicate to each other any information necessary for the application of this Agreement or for the purposes of their social security laws;
 - (b) lend their good offices and furnish assistance to one another (including the communication to each other of any information necessary) with regard to the determination or payment of any benefit under this Agreement or under the legislation to which this Agreement applies as if the matter involved the application of their own legislation;
 - (c) 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; and

- (d) at the request of one to the other, assist each other in relation to the implementation of agreements on social security entered into by either of the Parties with third States, to the extent and in the circumstances specified in the Administrative Arrangement made in accordance with Article 18.
2. The assistance referred to in paragraph 1 shall be provided free of charge, subject to any arrangement reached between the Competent Authorities and Competent Institutions for the reimbursement of certain types of expenses that are specified in the Administrative Arrangement made in accordance with Article 18.
3. Unless disclosure is required under the legislation of a Party, any information about an individual which is transmitted in accordance with this Agreement to a Competent Authority or a Competent Institution of that Party by a Competent Authority or a Competent Institution of the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.
4. In no case shall the provisions of paragraphs 1 and 3 be construed so as to impose on the Competent Authority or Competent Institution of a Party the obligation:
 - (a) to carry out administrative measures at variance with the laws or the administrative practice of that or the other Party; or
 - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or the other Party.
5. Notwithstanding any laws or administrative practices of a Party, no information concerning a person which is received by that Party from the other Party shall be transferred or disclosed to any other country or to any organisation within that other country without the prior written consent of that other Party.
6. In the application of this Agreement, the Competent Authority and the Competent Institution of a Party may communicate with the other in any of the official languages of the Parties.

Article 18

Administrative Arrangement

1. The Competent Authorities of the Parties shall establish, by means of an Administrative Arrangement, the measures necessary for the implementation of this Agreement.
2. The Competent Authorities shall appoint liaison bodies which are to be listed in the Administrative Arrangement.

Article 19

Resolution of Disputes

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.

Article 20

Review of Agreement

Where a Party requests the other to meet to review this Agreement, the Parties shall meet for that purpose no later than six months after that request was made and, unless the Parties otherwise arrange, their meeting shall be held in the territory of the Party to which that request was made.

PART VI

TRANSITIONAL AND FINAL PROVISIONS

Article 21

Transitional Provisions

1. In determining entitlement to a benefit under this Agreement, periods as an Australian resident, periods of Australian working life residence and periods of insurance under the legislation of Hellas completed before the entry into force of this Agreement shall also be taken into consideration.
2. Where, on the date on which this Agreement enters into force, a person is in receipt of a benefit under the legislation of either Party, no provision of this Agreement shall affect that person's qualification to receive that benefit.

Article 22

Entry into Force

This Agreement shall enter into force on the first day of the second month following the final day of the month in which notes are exchanged by the Parties through the diplomatic channel notifying each other that all matters as are necessary to give effect to this Agreement have been finalised.

Article 23

Termination

1. Subject to paragraph 2, this Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other a note through the diplomatic channel giving notice of termination of this Agreement.
2. In the event of termination, this Agreement shall continue to have effect in relation to all persons who:
 - (a) at the date on which termination takes effect, are in receipt of benefits;
 - (b) prior to that date have lodged claims for, and would be entitled to receive, benefits by virtue of this Agreement; or
 - (c) immediately before the date of termination are subject only to the legislation of one Party by virtue of Article 8 of Part II of the Agreement, provided the employee continues to satisfy the criteria of that Article.

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

DONE in two originals at Canberra this twenty-third day of May two thousand and seven in the English and Greek languages, each text being equally authoritative.

FOR THE GOVERNMENT OF
AUSTRALIA:

FOR THE GOVERNMENT OF THE
HELLENIC REPUBLIC:

.....
Mal Brough
Minister for Families, Community Services
and Indigenous Affairs

.....
Theodora Bakoyannis
Minister of Foreign Affairs