

No. 540

**AUSTRALIA
and
NEW ZEALAND**

**Agreement on social security. Signed at Sydney, on 15 April
1949**

English official text communicated by the Minister in charge of the Australian mission to the United Nations. The registration took place on 31 August 1949.

**AUSTRALIE
et
NOUVELLE-ZELANDE**

**Accord en matière de sécurité sociale. Signé à Sydney, le
15 avril 1949**

Texte officiel anglais communiqué par le Ministre chargé de la mission australienne auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 31 août 1949.

No. 540. AGREEMENT¹ ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF NEW ZEALAND. SIGNED AT SYDNEY, ON 15 APRIL 1949

The Government of Australia and the Government of New Zealand, being desirous of enabling residents of Australia taking up permanent residence in New Zealand, and residents of New Zealand taking up permanent residence in Australia, to acquire rights to social security or social service benefits and pensions in New Zealand or Australia, respectively, to which they would not otherwise be entitled, and of providing for payment on an agency basis of Australian social service pensions and benefits in New Zealand to persons who are ordinarily resident in Australia but are temporarily resident in New Zealand, and of New Zealand social security benefits in Australia to persons who are ordinarily resident in New Zealand but are temporarily resident in Australia, have agreed as follows:—

PART I.—PRELIMINARY

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

“The appropriate authority” means, in relation to Australia, the Director-General of Social Services and, in relation to New Zealand, the Social Security Commission;

“The Director-General” means the Director-General of Social Services in Australia;

“The Government of Australia” means the Government of the Commonwealth of Australia;

“The Social Security Act” means the Social Security Act, 1938, of New Zealand and includes that Act as at any time amended and any Act passed in substitution for that Act;

“The Social Security Commission” means the Social Security Commission of New Zealand;

¹ Came into force on 1 July 1949, in accordance with article 27.

“The Social Services Consolidation Act” means the Social Services Consolidation Act, 1947-1948, of the Commonwealth of Australia, and includes that Act as at any time amended and any Act passed in substitution for that Act.

2. There shall be reciprocity between Australia and New Zealand on the terms set out in this agreement in respect of the payment of the following pensions, allowances, endowment, and benefits under the Social Services Consolidation Act and the Social Security Act, respectively:—

- (a) Age pensions and age-benefits;
- (b) Invalid pensions (including wives' and children's allowances) and invalids' benefits;
- (c) Widows' pensions and widows' benefits;
- (d) Child endowment and family benefits;
- (e) Unemployment benefits; and
- (f) Sickness benefits.

PART II.—ENTITLEMENT TO RECIPROCAL GRANTS

3. (1) This part of this agreement shall apply to any person—

- (a) Who, while in Australia, applies to the Government of Australia for a pension, allowance, endowment, or benefit under the Social Services Consolidation Act; and—
 - (i) Has at any time resided in New Zealand; and
 - (ii) Satisfies the Director-General that he is residing permanently in Australia; or
 - (b) Who, while in New Zealand, applies to the Government of New Zealand for a benefit under the Social Security Act; and—
 - (i) Has at any time resided in Australia; and
 - (ii) Satisfies the Social Security Commission that he is residing permanently in New Zealand.
- (2) For the purposes of this part of this agreement—
- (a) A person who has resided in Australia for a continuous period of six months shall, during any further period of continuous

residence immediately following the expiration of the said period of six months, be deemed to be permanently resident in Australia unless the appropriate authorities of Australia and New Zealand agree to the contrary; and

- (b) A person who has resided in New Zealand for a continuous period of six months shall, during any further period of continuous residence immediately following the expiration of the said period of six months, be deemed to be permanently resident in New Zealand unless the appropriate authorities of Australia and New Zealand agree to the contrary.

4. The Government of Australia will, in dealing with an application for a pension, allowance, endowment, or benefit under the Social Services Consolidation Act by a person to whom this part of this agreement applies, treat residence in New Zealand as if it had been residence in Australia and will regard a person born in New Zealand as a person born in Australia.

5. No person shall be entitled, by virtue only of this part of this agreement, to receive an age, invalid, or widow's pension under the Social Services Consolidation Act unless that person would have been qualified on residential grounds to receive the comparable benefit under the Social Security Act if his residence in Australia had been residence in New Zealand.

6. The Government of New Zealand will, in dealing with an application for a benefit under the Social Security Act by a person to whom this part of this agreement applies, treat residence in Australia as if it had been residence in New Zealand and will regard a person born in Australia as a person born in New Zealand.

7. No person shall be entitled, by virtue only of this part of this agreement, to receive an age, invalid's or widow's benefit under the Social Security Act unless that person would have been qualified on residential grounds to receive the comparable pension under the Social Services Consolidation Act if his residence in New Zealand had been residence in Australia.

8. No male person shall be entitled by virtue only of this part of this agreement to receive an age-benefit under the Social Security Act unless he has attained the age of sixty-five years.

9. Where a person resident in Australia was, at any time before becoming so resident, resident in New Zealand, and that person applies to the Government of Australia for an invalid pension, the Government of Australia will, in dealing with the application, treat blindness or permanent incapacity for work which occurred in New Zealand as if it had occurred in Australia.

10. Where a person resident in New Zealand was, at any time before becoming so resident, resident in Australia, and that person applies to the Government of New Zealand for an invalid's benefit, the Government of New Zealand will, in dealing with the application, treat blindness or permanent incapacity for work which occurred in Australia as if it had occurred in New Zealand.

11. Where a woman resident in New Zealand applies to the Government of New Zealand for a widow's benefit and her husband was resident in Australia at the time of his death or, if he was resident in New Zealand at the time of his death, his last preceding place of residence was in Australia, the Government of New Zealand will, for the purposes of the application, treat residence of the husband in Australia as if it had been residence in New Zealand.

12. In the application of this agreement to widows' pensions and to widows' benefits —

- (a) A person who is an inmate of a hospital for the insane in Australia shall, for the purposes of the Social Security Act, be deemed to be a person detained in New Zealand in an institution under the Mental Defectives Act, 1911; and
- (b) A person who is detained in New Zealand in an institution under the Mental Defectives Act, 1911, shall, for the purposes of the Social Services Consolidation Act, be deemed to be an inmate of a hospital for the insane.

13. In determining the amount of a pension, allowance, endowment, or benefit payable to a person in pursuance of this part of this agreement, the pension, allowance, endowment, or benefit shall, subject to the provisions of this part of this agreement, be granted, computed, and assessed under the provisions of the laws of Australia or of New Zealand according to the country in which that person is resident.

14. A pension, allowance, endowment, or benefit payable in pursuance of this part of this agreement shall be paid in accordance with the conditions

and practice for the time being in force in Australia or New Zealand, as the case may be, in relation to pensions, allowances, endowments, or benefits of that class.

15. Nothing in this part of this agreement shall affect the entitlement of a person to a pension, allowance, endowment, or benefit to which he would have been entitled if this agreement had not been made.

PART III.—PAYMENT ON AN AGENCY BASIS

16. This part of this agreement shall apply to persons ordinarily resident in Australia who are in New Zealand and to whom Part II of this agreement does not apply and to persons ordinarily resident in New Zealand who are in Australia and to whom Part II of this agreement does not apply.

17. (1) Where a person ordinarily resident in Australia is in New Zealand and, in the opinion of the Social Security Commission, that person is not permanently resident in New Zealand, that person shall not, by reason only of his absence from Australia, be disqualified from receiving any pension, allowance, endowment, or benefit under the Social Services Consolidation Act to which he would have been entitled if he had remained in Australia.

(2) The Director-General may, in any such case, withhold payment of the whole or such part of the pension, allowance, endowment, or benefit as he thinks fit until the return of that person to Australia.

18. (1) Where a person ordinarily resident in New Zealand is in Australia and, in the opinion of the Director-General, that person is not permanently resident in Australia, that person shall not, by reason only of his absence from New Zealand, be disqualified from receiving any benefit under the Social Security Act to which he would have been entitled if he had remained in New Zealand.

(2) The Social Security Commission may, in any such case, withhold payment of the whole or such part of the benefit as it thinks fit until the return of that person to New Zealand.

19. (1) The Government of New Zealand agrees to act, without payment, as agent for the Government of Australia in the receipt of applications for, and the payment in New Zealand of, pensions, allowances, endowments, and benefits under the Social Services Consolidation Act in accordance with this part of this agreement.

(2) The Government of Australia agrees to act, without payment, as agent for the Government of New Zealand in the receipt of applications for, and the payment in Australia of, benefits under the Social Security Act in accordance with this part of this agreement.

20. If a person ordinarily resident in New Zealand makes, while in Australia, an application to the Director-General for a pension, allowance, endowment, or benefit under the Social Services Consolidation Act or for a benefit under the Social Security Act, the Government of New Zealand will accept the application as an application properly made for the appropriate benefit under the Social Security Act, and the date of receipt of the application by the Director-General shall be regarded as the date of receipt by the Social Security Commission.

21. If a person ordinarily resident in Australia makes, while in New Zealand, an application to the Social Security Commission for a benefit under the Social Security Act or a pension, allowance, endowment, or benefit under the Social Services Consolidation Act, the Government of Australia will accept the application as an application properly made for the appropriate pension, allowance, endowment, or benefit under the Social Services Consolidation Act, and the date of receipt of the application by the Social Security Commission shall be regarded as the date of receipt by the Director-General.

22. (1) Where, in accordance with this part of this agreement, the Government of New Zealand has paid on behalf of the Government of Australia pensions, allowances, endowments, or benefits to residents of Australia who are in New Zealand, the Government of Australia will pay to the Government of New Zealand the amount so paid on its behalf.

(2) Where, in accordance with this part of this agreement, the Government of Australia has paid on behalf of the Government of New Zealand benefits to residents of New Zealand who are in Australia, the Government of New Zealand will pay to the Government of Australia the amount so paid on its behalf.

(3) Each Government will submit to the other Government, half-yearly or at such intervals as are agreed upon between them, a statement containing particulars of all payments made by that Government in accordance with this part of this agreement and any necessary financial adjustments shall then be made between the Governments of the two countries.

PART IV. — GENERAL

23. Any claim for a pension, allowance, endowment, or benefit by virtue of Part II of this agreement shall, or any claim for a pension, allowance, endowment, or benefit by virtue of Part III of this agreement may, be made to the appropriate authority of the country in which the applicant is then present.

24. Each party to this agreement will, on request, afford to the other such party any information in the possession of the first-mentioned party relating to any person in relation to whom this agreement applies, or to the spouse or child of any such person, and will at all times provide such assistance as is reasonably required in obtaining any information for the purpose of determining any claim for any pension, allowance, endowment, or benefit under the Social Services Consolidation Act or for any benefit under the Social Security Act.

25. Except as provided in Part III of this agreement, there shall be no financial adjustments between the Government of Australia and the Government of New Zealand in respect of any payments made to any person by virtue of this agreement.

26. A person shall not be entitled to receive any pension, allowance, endowment, or benefit by virtue of Part III of this agreement in respect of any period for which he is entitled to receive a pension, allowance, endowment, or benefit by virtue of Part II of this agreement.

27. This agreement shall, in its application to any of the pensions, allowances, endowments, or benefits specified in clause 2 of this agreement, come into force in Australia and in New Zealand on such date as is agreed upon between the parties to this agreement.

28. This agreement shall remain in force until the expiration of six months from the date of delivery of written notice of termination by either party to this agreement to the other party.

29. (1) This agreement shall supersede the agreement dated the third day of September, one thousand nine hundred and forty-three, providing for reciprocity with respect to old-age pensions and age-benefits and invalid pensions and invalids' benefits, and every pension granted by the Government of Australia and every benefit granted by the Government of New Zealand by virtue of that agreement and in force immediately before the commencement of this agreement shall thereupon be deemed to be a pension or benefit granted by virtue of this agreement, and any necessary adjustments in the respective rates thereof shall be made as from the commencement of this agreement.

(2) Notwithstanding anything to the contrary in this agreement, a pension, allowance, or benefit granted by virtue of the agreement superseded by this agreement which could not have been granted by virtue of Part II of this agreement if this agreement had been in force when that pension, allowance, or benefit was granted shall continue under that superseded agreement and shall not be subject to this agreement until the pensioner or beneficiary has resided in the country in which he is receiving that pension, allowance, or benefit for a continuous period of six months.

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

DONE, in duplicate, at Sydney on the fifteenth day of April one thousand, nine hundred and forty-nine.

For the Government of Australia:

J. B. CHIFLEY
Prime Minister

For the Government of New Zealand:

P. FRASER
Prime Minister
