

**No. 27187**

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**IRELAND  
and  
AUSTRIA**

**Agreement on social security (with arrangement of 9 June 1989). Signed at Dublin on 30 September 1988**

*Authentic texts: English and German.*

*Registered by Ireland on 5 April 1990.*

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**IRLANDE  
et  
AUTRICHE**

**Accord sur la sécurité sociale (avec accord d'exécution du 9 juin 1989). Signé à Dublin le 30 septembre 1988**

*Textes authentiques : anglais et allemand.*

*Enregistré par l'Irlande le 5 avril 1990.*

## AGREEMENT<sup>1</sup> BETWEEN IRELAND AND THE REPUBLIC OF AUSTRIA ON SOCIAL SECURITY

Resolved to regulate the mutual relations between the two States  
in the field of social security,

Have agreed as follows:

### PART I

#### GENERAL PROVISIONS

#### ARTICLE 1

(1) For the purposes of this Agreement,

1. "legislation" means the laws, regulations and statutory instruments which relate to the branches of social security specified in paragraph (1) of Article 2;
2. "national" means, in relation to Austria, an Austrian citizen and, in relation to Ireland, a citizen of Ireland;
3. "competent authority" means, in relation to Austria, the Federal Minister responsible for the application of the legislation specified in paragraph (1) of Article 2 and, in relation to Ireland, the Minister for Social Welfare;
4. "institution" means, in relation to Austria, the service or authority responsible for the application of all or part of the legislation specified in paragraph (1) of Article 2 and, in relation to Ireland, the Department of Social Welfare;
5. "competent institution" means the institution competent under the applicable legislation to deal with the matter in question;

<sup>1</sup> Came into force on 1 December 1989, i.e., the first day of the third month following the month of the exchange of the instruments of ratification, which took place at Vienna, in accordance with article 23 (2).

6. "cash benefit" or "pension" means a cash benefit or a pension including all components thereof provided out of public funds, all increments, readjustment sums, additional allowances as well as lump sum payments and payments made by way of refunds of contributions;
  7. "insurance period" means a contribution period or an equivalent period;
  8. "contribution period" means, in relation to Austria, a period in respect of which contributions have been paid or are treated as paid and, in relation to Ireland, a period during which contributions have been paid, treated as paid, are payable or would have been paid but for the provisions of section 10 (1) (c) of the Social Welfare (Consolidation) Act, 1981;
  9. "equivalent period" means, in relation to Austria, a period which is treated as equivalent to the contribution period and, in relation to Ireland, a period for which contributions are credited.
- (2) Any other expression used in this Agreement shall have the meaning respectively assigned to it in the applicable legislation.

## Article 2

- (1) This Agreement shall apply:
1. In relation to Austria, to the legislation concerning
    - (a) pension insurance, with the exception of the insurance for notaries and
    - (b) with regard to Part II only, sickness insurance and accident insurance,

2. In relation to Ireland, to the Social Welfare Acts 1981 to 1988 and the Regulations made under these Acts as they relate to:
  - (a) old age (contributory) pension,
  - (b) retirement pension,
  - (c) widows (contributory) pension,
  - (d) invalidity pension and
  - (e) orphans (contributory) allowance.
- (2) This Agreement shall also apply to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph (1) of this article.
- (3) This agreement shall not affect any other agreement on social security which either Party has concluded with a third state or any legislation giving effect to such agreement or arising from international law, except so far as such agreement or legislation contains provisions relating to the apportionment of insurance burdens.

### Article 3

This Agreement shall apply:

- (a) To persons who are or have been subject to the legislation of one or both of the Parties,
- (b) to other persons with respect to the rights they derive from the persons described in subparagraph (a).

### Article 4

- (1) Unless otherwise provided in this Agreement, nationals of one Party shall, in the application of the legislation of the other Party, receive equal treatment with the nationals of the latter Party.
- (2) Benefits under the legislation of one Party shall be awarded to nationals of the other Party, ordinarily resident outside the territories of both Parties, under the same conditions

and to the same extent as they are awarded to the nationals of the first Party who ordinarily reside outside the territories of the Parties.

- (3) Paragraph (1) of this Article shall not apply to the provisions of the legislation of Austria concerning:
- (a) the participation of insured persons and employers in the administration of institutions and associations as well as adjudication in the field of social security;
  - (b) the apportionment of insurance burdens resulting from agreements with third states;
  - (c) the insurance of persons employed at a diplomatic mission or consular post of Austria in a third state or by a member of such a mission or post.
- (4) As regards the legislation of Austria, the following periods shall, subject to the other conditions specified in that legislation, be accepted as insurance periods for Irish nationals who were Austrian nationals immediately before March 13, 1938:
- (a) with regard to the First World War, periods of war service in the armed forces of the Austro-Hungarian Monarchy or in the forces of any state allied to it as well as periods of captivity as a prisoner of war (civil internee) and the return therefrom, which are similarly treated;
  - (b) with regard to the Second World War, periods of war service in the armed forces of the German Reich or in the forces of any state allied to it, periods of conscription in the forces or the labour service as well as periods of duty in the emergency services and air-raid services, and periods of captivity as a prisoner of war (civil internee) and the return therefrom, which are similarly treated.

### Article 5

- (1) Unless otherwise provided in this Agreement, pensions and other cash benefits payable under the legislation of one Party shall be paid also while the beneficiary is in the territory of the other Party.
- (2) Paragraph (1) of this Article shall not apply to the compensatory supplement under the legislation of Austria.
- (3) Paragraph (1) of this Article shall not apply to allowances for dependent children, an increase of pension where the pensioner is living alone or an increase of pension for a prescribed relative under the legislation of Ireland.

## PART II

### PROVISIONS WHICH DETERMINE THE LEGISLATION APPLICABLE

### Article 6

Subject to the provisions of Articles 7 to 9, the liability of a person who is gainfully occupied to be insured shall be determined under the legislation of the Party in whose territory the person is so occupied. This shall also apply where the place of residence of the gainfully occupied person or the employer's place of business is in the territory of the other Party.

### Article 7

- (1) Where an insured person is sent to work from the territory of one Party to the territory of the other Party by an employer who has his residence or place of business in the territory of the first Party the legislation of this Party shall apply during the first 24 months of the employment in the territory of the second Party.
- (2) Where a person employed by an air transport undertaking which has its place of business in the territory of one Party is sent to work from its territory to the territory of the other Party, the legislation of the first Party shall apply.

- (3) For the crew of a seagoing ship the legislation of the Party whose flag the ship is flying shall apply.

#### Article 8

A person employed by the Government or other public corporation of a Party in the territory of the other Party shall, in respect of that employment, 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, within three months of the beginning of the employment, elect to be subject only to the legislation of the first Party if he is a national thereof.

#### Article 9

- (1) The competent authorities of the two Parties may provide, by agreement with one another, exceptions to the provisions of Articles 6 to 8 where this is in the interest of persons affected thereby.
- (2) The application of the provisions of paragraph (1) of this Article shall be subject to a request by the employee concerned and by his employer.
- (3) Where in accordance with the provisions of paragraph (1) of this Article and of Articles 7 and 8, a person is subject to the legislation of one Party while he is gainfully occupied in the territory of the other Party, that legislation shall apply as if he were gainfully occupied in the territory of the first Party.

**PART III****PROVISIONS CONCERNING OLD AGE, INVALIDITY AND SURVIVORS  
BENEFITS****Article 10**

Unless otherwise provided in this Agreement, where a person has completed insurance periods under the legislation of both Parties, these periods, insofar as they do not overlap, shall be added together for the purpose of acquiring entitlement to a benefit.

**Article 11**

- (1) Where a person who has completed insurance periods under the legislation of both Parties, or the survivor of such a person, is claiming a benefit, the competent institution shall determine the amount of the benefit in the following manner:
- (a) The institution shall determine, in accordance with the legislation applied by it, if the person concerned has an entitlement to a benefit by adding together the insurance periods, as provided in Article 10.
  - (b) Where entitlement to benefit is determined to exist, the institution shall first calculate the theoretical amount of the benefit which would be payable if all the insurance periods completed under the legislation of both Parties had been completed exclusively under the legislation applied by it; in cases where the amount of the benefit is independent of the duration of the insurance periods, this amount shall be taken to be the theoretical amount.
  - (c) The institution shall then calculate the partial benefit payable on the basis of the amount calculated in accordance with the provisions of subparagraph (b) in proportion to the ratio between the duration of the



Insurance periods to be taken into consideration under the legislation applied by It and the total duration of the insurance periods to be taken into consideration under the legislation of both Parties.

- (2) Where the insurance periods to be taken into consideration under the legislation of one Party for the purpose of calculating the amount of a benefit are in aggregate less than twelve months or 52 weeks, no benefit under that legislation shall be paid; in that case the competent institution of the other Party shall take into account these insurance periods for the acquisition of the entitlement to benefit as well as for the determination of the amount of the benefit, as if these insurance periods were completed under the legislation applied by it. These provisions shall not apply, if the entitlement to that benefit has been acquired under the legislation of the first Party exclusively on the basis of insurance periods completed under that legislation.
- (3) For the application of Article 10 and paragraphs (1) and (2) of this Article, the following rules shall apply:
  - (a) where insurance periods under the legislation of Austria expressed in months are being converted into insurance periods under the legislation of Ireland expressed in weeks, one month shall be the equivalent of 26 days and each six days shall be the equivalent of one week;
  - (b) where insurance periods under the legislation of Ireland expressed in weeks are being converted into insurance periods under the legislation of Austria expressed in months, one week shall be the equivalent of six days and each 26 days shall be the equivalent of one month.

### Article 12

The competent Austrian Institution shall apply Articles 10 and 11 according to the following rules:

- (1) In determining the Institution responsible for paying a benefit, only insurance periods under the legislation of Austria shall be taken into consideration.
- (2) Articles 10 and 11 shall not apply to either the conditions of entitlement or to the payment of the miners' long service allowance under the miners' pension insurance.
- (3) For the application of paragraph (1) of Article 11, the following shall apply:
  - (a) the basis of assessment shall be determined exclusively on insurance periods under the legislation of Austria;
  - (b) contributions for supplementary insurance, the miners' supplementary benefit, the helpless person's allowance and the compensatory supplement shall be disregarded.
- (4) For the application of subparagraphs (1)(b) and (c) of Article 11, overlapping insurance periods under the legislation of the two Parties shall be taken into consideration as if they did not overlap.
- (5) If, for the application of subparagraph (1)(c) of Article 11, the total duration of the insurance periods to be taken into consideration under the legislation of both Parties exceeds the maximum number of insurance months specified under the legislation of Austria for the calculation of the rate of increments, the partial pension payable shall be calculated in proportion to the ratio between the duration of the insurance periods to be taken into consideration under the legislation of Austria and the above mentioned maximum number of insurance months.

- (6) For the calculation of the helpless person's allowance, subparagraphs (1) (b) and (c) of Article 11 shall apply; paragraph (11) of this Article shall apply accordingly.
- (7) The amount calculated according to subparagraph (1) (c) of Article 11 shall be increased, where applicable, by increments for contributions for supplementary insurance, the miners' supplementary benefit, the helpless person's allowance and the compensatory supplement.
- (8) If the award of benefits under the miners' pension insurance depends on the completion of essentially mining activities, within the meaning of the legislation of Austria, in specific undertakings, then only those insurance periods under the legislation of Ireland which are based on a similar occupation in similar undertakings shall be taken into consideration.
- (9) The special payments shall be payable in proportion to the partial benefit; paragraph (11) of this Article shall apply accordingly.
- (10) (a) Where entitlement to a benefit exists under the legislation of Austria without the application of Article 10, the competent institution shall pay the pension which would be payable exclusively on the basis of the insurance periods to be taken into consideration under that legislation, provided there is no entitlement to a corresponding benefit under the legislation of Ireland.
- (b) The pension determined in accordance with sub-paragraph (a) of this paragraph shall be recalculated in accordance with the provisions of Article 11 as soon as entitlement arises to a corresponding benefit under the legislation of Ireland. This recalculation shall have effect from the date on which the benefit under the legislation of Ireland becomes payable. The irrevocability of previous decisions shall not prevent this recalculation.

- (11) If a person is entitled to a benefit under the legislation of Austria without the application of Article 10, and if such a benefit would be greater than the total of the Austrian benefit calculated in accordance with subparagraph (1) (c) of Article 11 and the corresponding Irish benefit, the competent institution shall pay, as the partial benefit, its benefit so calculated increased by the difference between such total and the benefit which would be payable if the legislation of Austria alone were applied.
- (12) Where a woman is entitled to an old age (contributory) pension or retirement pension under the legislation of Ireland instead of a widows (contributory) pension under that legislation, then for the purpose of calculating a widows pension under the legislation of Austria, Article 11 and paragraphs (10) and (11) of this Article shall be applied as if the woman was entitled to widows (contributory) pension under the legislation of Ireland.

### Article 13

The competent Irish institution shall apply Articles 10 and 11 according to the following rules:

- (1) Notwithstanding the provisions of Article 10 where a person is entitled to pension by virtue of the legislation of Ireland alone that pension shall be payable and the provisions of Article 11 shall not apply.
- (2) (a) Where a compulsory or voluntary insurance period completed under the legislation of Ireland coincides with an insurance period completed under the legislation of Austria only the Irish insurance period shall be considered.
- (b) Where an equivalent period completed under the legislation of Ireland coincides with a compulsory or voluntary insurance period completed under the legislation of Austria the Irish equivalent period shall not be considered.

- (c) Where an equivalent period completed under the legislation of Ireland coincides with an equivalent period completed under the legislation of Austria only the Irish equivalent period shall be considered if the person was last compulsorily insured prior to this period under the legislation of Ireland.

**PART IV**  
**MISCELLANEOUS PROVISIONS**

Article 14

- (1) The competent authorities of the Parties shall, by means of an arrangement, establish the administrative measures necessary for the application of this Agreement.
- (2) The competent authorities of the Parties shall inform each other of
- (a) all measures taken for the application of this Agreement, and
  - (b) all changes in legislation which affect the application of this Agreement.
- (3) The authorities and institutions of the Parties shall assist each other in applying this Agreement as if they were applying their own legislation. This assistance shall be free of charge.
- (4) Medical examinations to be carried out in the application of the legislation of one Party and referring to persons residing in the territory of the other Party shall, on request of the competent institution, be carried out by the institution of the place of residence. The cost of such examinations shall be met by this institution.

Article 15

The competent authorities of the Parties shall, in order to facilitate the application of this Agreement, particularly for the

creation of a simple and fast liaison between the institutions concerned, establish liaison offices.

#### Article 16

- (1) Any exemption or reduction provided for in the legislation of one Party for taxes, stamp duties, legal dues or registration fees for certificates or documents which have to be submitted for the application of this legislation shall be extended also to the respective certificates or documents which must be submitted for the application of this Agreement or the legislation of the other Party.
- (2) Documents and certificates of any kind which must be submitted for the application of this Agreement shall not require authentication by diplomatic or consular authorities.

#### Article 17

- (1) Any notice or claim which should, for the purpose of a claim for benefit under the legislation of one Party, have been submitted to an institution of that Party, shall be treated as if it had been submitted to that institution, if it is submitted to an institution of the other Party which is competent to deal with claims to the corresponding benefit of the latter Party.
- (2) Any claim for benefit submitted under the legislation of one Party shall be treated as if it were a claim for the corresponding benefit under the legislation of the other Party insofar as that corresponding benefit is payable in accordance with the provisions of this Agreement.
- (3) In any case to which the provisions of paragraph (1) or (2) of this Article apply, the institution to which the notice or claim has been submitted shall transmit it without delay to the competent institution of the other Party.

Article 18

- (1) The competent institution of a Party shall discharge its obligations under this Agreement in the national currency of that Party.
- (2) Any remittance to be made in accordance with this Agreement shall be made in accordance with the arrangements which are in force in this field in both Parties at the time when such remittance is made.

Article 19

Where an institution of one Party has overpaid benefit, the institution of the other Party shall, at the request of the first mentioned institution, withhold any arrears of a corresponding benefit which becomes payable for the same period under the legislation of this Party and shall transmit this sum to the institution of the first Party.

Article 20

- (1) Any dispute between the Parties relating to the interpretation or application of this Agreement shall be made the subject of direct negotiations between the competent authorities of the Parties.
- (2) If the dispute cannot be resolved in this manner within six months from the beginning of such negotiations, it shall be submitted, at the request of one or both of the Parties, to an arbitration commission, whose composition and rules of procedure shall be determined by agreement between the Parties.
- (3) The arbitration commission shall decide the dispute according to the spirit and fundamental principles of this Agreement; its decisions shall be binding and final.

## PART V

## TRANSITIONAL AND FINAL PROVISIONS

Article 21

- (1) This Agreement shall not establish any entitlement to payment of a benefit for a period before its entry into force.
- (2) In determining entitlement to a benefit under this Agreement, insurance periods completed under the legislation of a Party before the entry into force of this Agreement shall be taken into consideration.
- (3) Subject to paragraph (1) of this Article, this Agreement shall also apply to contingencies which occurred before its entry into force, insofar as previously determined entitlements have not been settled by lump-sum payments. In cases to which this paragraph applies, in accordance with the provisions of this Agreement:
  - (a) the amount of a benefit due only by virtue of this Agreement shall be determined from the date of entry into force of this Agreement at the request of the beneficiary;
  - (b) the amount of a benefit which had been determined before the entry into force of this Agreement shall be recalculated at the request of the beneficiary.

Where the claim for determination or recalculation of the amount of a benefit is submitted within two years from the date of entry into force of this Agreement, the benefit shall be paid from that date; otherwise the benefit shall be paid from the date determined under the legislation of each Party.

- (4) In the case of subparagraph (3) (b) of this Article, Article 19 shall apply accordingly.



Article 22

This Agreement shall not effect any existing rights under Austrian legislation of any person who has suffered disadvantages in the field of social security because of political or religious reasons or by reason of descent.

Article 23

- (1) This Agreement shall be ratified. The Instruments of ratification shall be exchanged at Vienna as soon as possible.
- (2) This Agreement shall enter into force on the first day of the third month following the month in which the Instruments of ratification are exchanged.
- (3) This Agreement shall remain in force for an indefinite period. Either Party may denounce it in writing, with twelve months previous notice.
- (4) In the event of termination of this Agreement by denunciation, any right acquired under its provisions not later than the effective date of that termination shall be maintained; negotiations shall take place for the settlement of any rights in the course of acquisition by virtue of the provisions of this Agreement.

IN WITNESS THEREOF the Plenipotentiaries have signed this Agreement.

DONE in duplicate at Dublin this 30th day of September 1988 in English and German, both texts being equally authentic.

For Ireland:  
[Illegible]

For the Republic of Austria:  
[Illegible]

ARRANGEMENT FOR THE APPLICATION OF THE AGREEMENT BETWEEN IRELAND AND THE REPUBLIC OF AUSTRIA ON SOCIAL SECURITY

In accordance with paragraph (1) of Article 14 of the Agreement between Ireland and the Republic of Austria on Social Security, signed on 30 September 1988, the competent authorities:

for Ireland,  
the Minister of Social Welfare;

for Austria,  
the Federal Minister for Labour and Social Affairs;

have agreed for the purposes of applying the Agreement as follows:

**PART I**

**GENERAL PROVISIONS**

**Article 1**

(1) For the purposes of this Arrangement, "Agreement" means the Agreement between Ireland and the Republic of Austria on Social Security, signed at Dublin on 30 September 1988.

(2) The terms used in this Arrangement shall have the meaning given to them in Article 1 of the Agreement.

**Article 2**

(1) The following are designated as liaison offices in accordance with Article 15 of the Agreement:

for Austria:  
the Main Federation of Austrian Social Insurance  
Institutions;

for Ireland:

the Department of Social Welfare.

(2) The liaison offices shall have the duties defined in this Arrangement. For the implementation of the Agreement they may communicate directly with one another and with any person affected by the Agreement. They shall assist one another in the implementation of the Agreement.

(3) The liaison offices shall agree on models of forms necessary to implement the Agreement.

## PART II

### APPLICATION OF THE PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

#### Article 3

(1) In cases arising under Article 7 of the Agreement, or involving an election under Article 8 of the Agreement, the institution of the Party whose legislation applies shall, on request, issue a certificate showing, in respect of the employment in question, that the employee is subject to that legislation.

(2) The certificates referred to in paragraph (1) of this Article shall be issued:

where the legislation of Austria applies,  
by the competent sickness insurance institution;

where the legislation of Ireland applies,  
by the Department of Social Welfare.

**PART III****APPLICATION OF THE PROVISIONS CONCERNING  
OLD AGE, INVALIDITY AND SURVIVORS BENEFITS****Article 4**

(1) Where a claim arising under the provisions of Article 10 of the Agreement is received by the institution of one Party and it appears that there may be title to benefit under the legislation of the other Party, the former institution shall notify the institution of the latter Party, sending all relevant information.

(2) Where a claim is received under paragraph (1) of this Article the former institution shall verify all necessary particulars of the claimant, the insured person and his dependants.

(3) The institutions of each Party shall thereafter notify each other of any other facts relevant to the determination of the claim and shall send, where appropriate, medical reports.

(4) The institutions of each Party shall notify each other of the decision on the claim.

**PART IV****MISCELLANEOUS PROVISIONS****Article 5**

For the purposes of paragraphs (3) and (4) of Article 14 of the Agreement, where a person, who is resident in the territory of one Party is claiming or receiving benefit or appeals against a decision given under the legislation of the other Party, the institution of the former Party, at the request of the institution of the latter Party, shall arrange

for a medical examination or for any necessary enquiries to be made concerning the person or his dependants and shall notify the institution of the latter Party accordingly.

#### Article 6

The liaison offices of both Parties shall exchange annual statistics regarding the payments which have been made under the Agreement and regarding the number of persons in respect of whom certificates have been issued under Article 3 of this Arrangement in a form to be agreed.

#### Article 7

(1) Any notice or claim, received by the institution of one Party, for which the institution of the other Party is competent, shall be endorsed with the date of its receipt by the former institution and sent to the institution of the latter Party.

(2) Paragraph (1) of this Article shall apply accordingly to any appeal received by an Austrian institution, for which the Irish institution is competent.

#### Article 8

For the purposes of Article 19 of the Agreement the institutions of each Party shall, on request, send to each other such information as may be required to enable recovery of overpayments of benefit to be made.

#### Article 9

This Arrangement shall take effect on the date of entry into force of the Agreement and shall have the same duration.

**DONE in duplicate at Vienna, this 9th day of June 1989, in English and German, each text being equally authentic.**

For the Minister of Social Welfare:

*[Illegible]*

For the Federal Minister of Labour and Social Affairs:

*[Illegible]*

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