

No. 27582

**AUSTRALIA
and
ITALY**

Exchange of letters constituting an agreement relating to the portability of pensions (with schedules). Canberra, 2 November 1972

Authentic texts: English and Italian.

Registered by Australia on 18 October 1990.

Termination (*Note by the Secretariat*)

**AUSTRALIE
et
ITALIE**

Échange de lettres constituant un accord relatif à la transférabilité des pensions (avec tableaux). Canberra, 2 novembre 1972

Textes authentiques : anglais et italien.

Enregistré par l'Australie le 18 octobre 1990.

Abrogation (*Note du Secrétariat*)

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA AND THE GOVERNMENT OF ITALY RELATING TO THE PORTABILITY OF PENSIONS

I

COMMONWEALTH OF AUSTRALIA
MINISTER FOR SOCIAL SERVICES

- 2 NOV 1972

Your Excellency,

I have the honour to refer to our recent correspondence and discussions following my letter to you of 14 February last on the question of portability of pensions, namely, the basis on which Australian pensions would be payable in Italy and the basis on which the corresponding Italian benefits would be payable in Australia.

Accordingly, I now have the honour, on behalf of the Government of the Commonwealth of Australia, to propose that an Agreement be concluded between our two Governments in the following terms -

1. The Government of the Commonwealth of Australia (herein referred to as the Australian Government) agrees that, where a person who is in receipt of an Australian pension specified in Schedule A attached hereto leaves Australia for the purpose of residing (whether temporarily or permanently) in Italy, that person is entitled to the continued payment of his pension in accordance with the provisions set out in Schedule A.
2. The Government of the Republic of Italy (herein referred to as the Italian Government) agrees that where a person would, if resident in Italy, receive one or more of the pensions specified in Schedule B attached hereto, that person shall, subject to this Agreement, receive such pension while residing, whether temporarily or permanently, in Australia or while travelling with reasonable expedition between Italy and Australia.
3. For the purposes of payment of the pensions referred to in paragraphs 1 and 2 above, the Government of each country agrees that a person's right to receive a pension under the legislation of that country and

¹ Came into force on 2 November 1972, the date of the letter in reply, in accordance with the provisions of the said letters.

payable by virtue of this Agreement shall not be affected or diminished by any provisions limiting the transfer of funds from one country to the other.

4. The two Governments may, by mutual consent and in accordance with the provisions of this Agreement, make appropriate arrangements in respect of double payments of pensions.
5. The appropriate authorities or agencies of each Government shall :
 - (a) make such administrative arrangements as may be required for the purposes of giving effect to this Agreement and shall determine all matters of an incidental and supplementary nature which in their opinion are relevant for that purpose;
 - (b) communicate to each other information regarding any measures taken by them to give effect to this Agreement;
 - (c) supply to each other, on request, information regarding the circumstances of any person receiving a pension or a benefit in accordance with the provisions of this Agreement; and
 - (d) communicate to each other, as soon as possible, information regarding any changes made in the legislation of their countries which may affect the application of this Agreement.
6. Where, under the provisions of this Agreement, any pension or benefit is payable under the legislation of one country to a person who is in the other country, the payment may, at the request of the appropriate authority of the former country and with the agreement of the appropriate authority of the latter country, be made by the appropriate authority of the latter country as agent for the appropriate authority of the former country.
7. For the purposes of paragraphs 5 and 6 above of this Agreement, the appropriate authorities or agencies shall be :
 - (a) in the case of the Australian Government, the Department of Social Services; and
 - (b) in the case of the Italian Government, the Ministry of Labour and Social Security.

8. For the purposes of this Agreement, "Australia" includes an external Territory of the Commonwealth of Australia.
9. The Schedules referred to in this Agreement shall form an integral part of the Agreement and any reference to the Agreement shall include reference to the Schedules.
10. No provision of this Agreement shall confer any right to receive any payment of a pension or benefit for a period before the date of entry into force of this Agreement.
11. No provision of this Agreement shall diminish any rights which a person has acquired under the legislation of either country before the date of entry into force of this Agreement.
12. Where one Government gives notice to the other in writing of its intention to terminate the Agreement, the Agreement shall, unless the two Governments otherwise agree, cease to have effect twelve months after the date of such notice.

I have the honour to suggest that, if the foregoing is acceptable to your Government, this letter and your confirmatory reply thereto shall together constitute an agreement between our two Governments which shall enter into force on the date of your reply.

Please accept, Excellency, the assurances of my highest consideration,

[Signed]

W. C. WENTWORTH

His Excellency Mr Paolo Canali
Ambassador
Embassy of Italy
Deakin, A.C.T.

SCHEDULE AAUSTRALIAN PENSIONS

1. The Australian pensions referred to in paragraph 1 of the Agreement are age and invalid pensions (including wives' pensions) and widows' pensions payable under the Social Services Act 1947-1972.
2. A pension shall be payable during the period during which a pensioner resides whether temporarily or permanently in Italy or in any other participating country and any period that the pensioner spends in travelling between Australia and Italy or any other participating country or between participating countries.
3. An Australian pension shall not continue to be paid to a person unless the circumstances set out in one of the following paragraphs are applicable:
 - (a) the pensioner, after having attained the age of sixteen years, has resided in Australia for a period of, or for periods amounting in the aggregate to, not less than twenty years;
 - (b) the pension is an invalid pension and the permanent incapacity for work or the permanent blindness of the pensioner by reason of which the pension is payable resulted from an accident or injury, or a disease, that occurred when he was permanently resident in Australia;
 - (c) the pension is a widow's pension payable by reason of the death of the husband of the pensioner and that death occurred when both the pensioner and her husband were permanently resident in Australia;
 - (d) the pension is a wife's pension.
4. Where -
 - (a) a person who is in receipt of an Australian pension referred to in paragraph 1 of this Schedule would, if that pension were cancelled, be entitled, if he were residing in Australia, to the grant of another such Australian pension; and
 - (b) the circumstances set out in the previous paragraph of this Schedule are applicable in relation to that other pension,that firstmentioned pension may be cancelled, and that other pension may be granted and paid, as if he were residing in Australia.
5. Where the Director-General of Social Services considers that a period of travel that forms part of a period referred to in paragraph 2 of this Schedule in relation to a person is longer than was reasonably required to make the journey concerned, the Director-General may, by instrument in writing, direct that pension is not payable to the person with respect to that period of travel or such part of that period as is specified in the direction.

S C H E D U L E BPensions payable abroad
under Italian legislation

Age, invalid and survivors' pensions for workmen, self-employed craftsmen and professional people.

Decree Law 21.4.1919 No. 603 - Royal Decree Law 4.10.1935
No. 1827 and successive legislation.

[TRANSLATION — TRADUCTION]

EMBASSY OF ITALY

Canberra, 2 November 1972

Sir,

I have the honour to confirm receipt of your letter of today's date which reads as follows:

[*See letter I*]

I have the honour to inform you that the Italian Government accepts the proposals referred to above.

Accept, Sir, etc.

[*Signed*]

PAOLO CANALI

The Honourable Mr. W. C. Wentworth
Minister of Social Services
Canberra

TERMINATION OF THE AGREEMENT OF 2 NOVEMBER 1972 RELATING TO THE PORTABILITY OF PENSIONS BETWEEN THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA AND THE GOVERNMENT OF ITALY¹

(Note by the Secretariat)

The Government of Australia registered on 8 June 1989 the Agreement between Australia and the Republic of Italy providing for reciprocity in matters relating to social security signed at Rome on 23 April 1986.²

The said Agreement, which came into force on 1 September 1988, provides, in its article 23 (2), for the termination of the above-mentioned Agreement of 2 November 1972.

(18 October 1990)

¹ See p. 146 of this volume.

² United Nations, *Treaty Series*, vol. 1535, p. 201.