

No. 30315

**AUSTRALIA
and
CYPRUS**

**Agreement on social security. Signed at Nicosia on 12 May
1992**

Authentic texts: English and Greek.

Registered by Australia on 28 September 1993.

**AUSTRALIE
et
CHYPRE**

Accord de sécurité sociale. Signé à Nicosie le 12 mai 1992

Textes authentiques : anglais et grec.

Enregistré par l'Australie le 28 septembre 1993.

AGREEMENT¹ ON SOCIAL SECURITY BETWEEN AUSTRALIA AND THE REPUBLIC OF CYPRUS

Australia and the Republic of Cyprus,

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

Resolved to coordinate their social security systems;

Have agreed as follows:

PART I GENERAL PROVISIONS

ARTICLE 1 Definitions

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

- (a) "benefit" means in relation to a Party, a benefit, pension or allowance 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, pension or allowance to or in respect of a person who qualifies for that additional amount, increase or supplement under the legislation of that Party;

¹ Came into force on 1 January 1993, i.e., the first day of the second month after the Parties had notified each other (on 27 November 1992) of the completion of the constitutional or legislative procedures, in accordance with article 20 (1).

- (b) "carer pension" means a carer pension payable to the partner of a person who is in receipt of a disability support pension for the severely disabled or an age pension where that partner is legally married to that person;
- (c) "Competent Authority" means;
- in relation to Australia:
the Secretary to the Department of Social Security; and,
- in relation to Cyprus:
the Minister of Labour and Social Insurance;
- (d) "Competent Institution" means;
- in relation to Australia:
the Department of Social Security; and
- in relation to Cyprus:
the Department of Social Insurance Services,
Ministry of Labour and Social Insurance;
- (e) "legislation" means the laws specified in Article 2;
- (f) "period of Australian working life residence", in relation to a person, means a period defined as such in the legislation of Australia;
- (g) "period of insurance" means a period for which contributions have been paid or credited or a period of paid or credited insurable earnings under the legislation of Cyprus;

(h) "territory" means;

in relation to Australia:
Australia as defined in the legislation of
Australia; and

in relation to Cyprus:
the island of Cyprus;

(i) "welfare benefit" means, in relation to Cyprus,
any benefit payable under the Public Assistance
Law of 1991 and any law to provide a similar
means tested benefit from public funds that
subsequently amends, supplements or replaces it
and any rent allowance payable out of the Fund
established under the Rent Control Laws of 1983
and 1991 and any law to provide a similar
means-tested rent allowance from public funds
that subsequently amends, supplements or replaces
them; and

(j) "widow" means, in relation to Australia, a de
jure widow but does not include a woman who has a
partner.

2. In the application by a Party of this Agreement in
relation to a person, any term not defined in this Article
shall, unless the context otherwise requires, have the
meaning assigned to it in the legislation of either 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, supplement or replace them:

- (a) in relation to Australia: the Social Security Act 1991 in so far as the Act provides for, applies to or affects the following benefits:
 - (i) age pension;
 - (ii) disability support pension for the severely disabled;
 - (iii) pensions payable to widows;
 - (iv) widowed person allowance; and
 - (v) carer pension; and

- (b) in relation to Cyprus: the Social Insurance Laws of 1980 to 1990 in so far as the Laws provide for, apply to or affect social insurance benefits for:
 - (i) age;
 - (ii) invalidity and work-related disablement;
 - (iii) survivorship; and
 - (iv) funerals.

2. Notwithstanding the provisions of paragraph 1, neither the legislation of Australia nor the legislation of Cyprus shall include any laws made at any time for the purpose of giving effect to any agreement on Social Security.

3. This Agreement shall apply to laws which extend the 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 Cyprus,

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, all persons to whom this Agreement applies shall be treated equally by a Party in regard to rights and obligations which arise whether directly under the legislation of that Party or by virtue of this Agreement.

ARTICLE 5

Application of the legislation of Cyprus

1. Subject to the following paragraphs, where a person to whom this Agreement applies is gainfully occupied in the

territory of Cyprus the person's liability to be insured under the legislation of Cyprus shall be determined under that legislation, even if the person's place of residence and/or the employer's place of business is in Australia.

2. Where a person insured under the legislation of Cyprus is sent by an employer to work temporarily in Australia the person shall continue to be subject to the legislation of Cyprus during the first 24 months of employment in Australia.

3. A person who is employed as a member of the crew of a seagoing ship flying the Cyprus flag shall be subject to the legislation of Cyprus if the person is ordinarily resident in Cyprus.

4. Subject to the provisions of paragraph 5, a person employed by the Government or other public corporation of Cyprus sent by that Government or corporation to work in Australia shall continue to be subject to the legislation of Cyprus as if employed in Cyprus. A person employed by the Government or other public corporation of Australia in Cyprus shall be subject to the legislation of Cyprus if ordinarily a resident of Cyprus.

5. This Article does not apply to any person who falls within the scope of the Vienna Convention on Diplomatic Relations¹ or the Vienna Convention on Consular Relations.²

6. The Competent Authorities of the two Parties may provide, by agreement with one another, exceptions to the provisions of this Article where this is in the interest of persons affected thereby.

¹ United Nations, *Treaty Series*, vol. 500, p. 95.

² *Ibid.*, vol. 596, p. 261.

7. Where in accordance with the provisions of this Article a person is insured under the legislation of Cyprus while gainfully occupied in Australia, that legislation shall apply to that person as if he or she were gainfully occupied in Cyprus.

PART II
PROVISIONS RELATING TO BENEFITS
AUSTRALIAN BENEFITS

ARTICLE 6
Residence of presence in Cyprus
or a third State

1. Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for a 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 residing in the territory of Cyprus or a third State with which Australia has concluded an agreement on social security that includes provision for co-operation in the assessment and determination of claims for benefits; and
- (b) is in Australia, or the territory of Cyprus or that third State,

that person shall be deemed, for the purposes of lodging that claim, to be an Australian resident and in Australia on that date.

2. Paragraph 1 shall not apply to a claimant for a carer pension who has never been an Australian resident.

ARTICLE 7

Partner related Australian benefits

A person who receives from Australia any Australian pension, benefit or allowance under the social security laws of Australia due to the fact that the partner of that person receives, by virtue of this Agreement, an Australian benefit, shall be deemed to be receiving that pension, benefit or allowance by virtue of this Agreement but shall cease to qualify for that pension, benefit or allowance, if he or she is not physically present in Australia but, when that person is receiving a carer pension, he or she shall not cease to qualify for that pension while he or she is physically present in Cyprus.

ARTICLE 8

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 a benefit; and
- (b) a period of Australian working life residence equal to or greater than the period identified in accordance with paragraph 5 for that person; and
- (c) a period of insurance;

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

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 in two or more separate periods that equals or exceeds in total the period referred to in subparagraph (a),

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

3. For the purposes of converting a person's period of insurance to a period when that person was an Australian resident:

- (a) each week of insurance completed before 6 October 1980 under the legislation of Cyprus shall be treated as a week when that person was an Australian resident under the legislation of Australia; and
- (b) the insurable earnings for any period of insurance completed from 6 October 1980 under the legislation of Cyprus shall be divided by the

weekly amount of the basic insurable earnings applicable in the relevant contribution year. The figure so calculated, subject to the maximum number of weeks during which the person was subject to that legislation in that year, shall be treated as representing the number of weeks in the insurance period. Each week shall be treated as equivalent to one week when that person was an Australian resident.

4. For all purposes of this Article, where a period by a person as an Australian resident and a period of insurance coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.

5. 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 no minimum period shall be required.

ARTICLE 9

Calculation of Australian benefits

1. Subject to paragraph 2, where an Australian benefit is payable, whether by virtue of this Agreement or otherwise,

to a person who is outside Australia, the rate of that benefit shall be determined according to the legislation of Australia but, when assessing the income of that person for the purposes of calculating the rate of the Australian benefit, only a proportion of any Cyprus social insurance benefit received by that person shall be regarded as income. That proportion shall be calculated by multiplying the number of whole months accumulated by that person in a period of residence in Australia (not exceeding 300) by the amount of that Cyprus social insurance benefit and dividing that product by 300.

2. Only a person receiving a proportionalised Australian benefit under the legislation of Australia shall be entitled to receive the concessional assessment of income described in paragraph 1.

3. Where an Australian benefit is payable, whether payable by virtue of this Agreement or otherwise, to a person who is a resident of Cyprus, Australia shall disregard, when assessing the income of that person, any welfare benefit paid to that person by Cyprus.

4. Subject to the provisions of paragraph 5, 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 the Cyprus benefit received by that person;
- (b) deducting the amount of the Cyprus benefit received by that person 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).

5. Where a member of a couple is, or both that member and his or her partner are, in receipt of a Cyprus benefit or benefits, each of them shall be deemed, for the purpose of paragraph 4 and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or total of both of those benefits, as the case may be.

6. If a person would receive an Australian benefit except for the operation of paragraph 4 or except for that person's failure to claim the benefit, then for the purposes of a claim by that person's partner for a payment under the legislation of Australia that person shall be deemed to receive that benefit.

7. The reference in paragraph 6 to a payment under the legislation of Australia to the partner of a person is a reference to a payment of any pension, benefit or allowance payable under the social security laws of Australia and whether payable by virtue of this Agreement or otherwise.

PART III

PROVISIONS RELATING TO CYPRUS BENEFITS

ARTICLE 10

Totalisation for Cyprus

1. Subject to paragraph 4, if a person is not entitled to benefit on the basis of insurance periods completed under

the legislation of Cyprus alone entitlement for that benefit shall be determined by totalising these periods with periods of Australian working life residence to the extent necessary for entitlement to benefit.

2. In applying the provisions of paragraph 1, no account shall be taken of any period of working life residence in Australia completed prior to 7 January 1957.

3. For the purposes of this Article where a period of insurance and a period of Australian working life residence coincide, the period of coincidence shall be taken into account once only as a period of insurance.

4. Paragraph 1 shall not apply if the period of insurance is less than 52 weeks, except where the required period of insurance for entitlement to a benefit under the legislation of Cyprus is less than 52 weeks.

5. For the purpose of converting a period of Australian working life residence into a period of insurance under the legislation of Cyprus, a person shall be treated for each week of working life residence in Australia as having insurable earnings under the legislation of Cyprus equal to the weekly amount of basic insurable earnings.

ARTICLE 11

Calculation of Cyprus benefits

1. Subject to paragraph 2, the amount of benefit payable under the provisions of Article 10 shall be determined as follows:

- (a) the Competent Institution of Cyprus shall calculate the theoretical basic benefit that

would be payable if the periods of insurance completed under the legislation of Cyprus and the periods of Australian working life residence, totalised as provided in paragraph 1 of Article 10, had been periods of insurance under the legislation of Cyprus alone;

- (b) it shall then prorate the theoretical basic benefit so calculated by the fraction which represents the ratio of the insurance periods completed under the legislation of Cyprus in relation to the total of the insurance periods completed under that legislation and the periods of Australian working life residence which are taken into account; and
- (c) the amount of the supplementary benefit shall be determined exclusively on the basis of periods of insurance completed under the legislation of Cyprus.

2. The amount of the funeral benefit payable under the legislation of Cyprus shall be calculated as if the periods of residence, which are taken into account as provided in paragraph 1 of Article 10, were periods of insurance under the legislation of Cyprus alone.

ARTICLE 12

Work-related disablement

1. Subject to paragraph 2, pensions for work-related disablement under the legislation of Cyprus shall be paid by virtue of this agreement in respect of disablement which occurs while a person is insured under that

legislation and employed in an occupation which is valid for the purposes of that legislation.

2. The rate of a pension for work-related disablement paid by virtue of this Agreement shall be calculated as if the impairment which qualified a person for a benefit under the legislation of Australia had occurred under the legislation of Cyprus.

PART IV

MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

ARTICLE 13

Lodgement of documents

1. A claim, notice or appeal concerning a benefit, whether payable by a Party by virtue of this Agreement or otherwise, may be lodged in the territory of the other Party in accordance with the Administrative Arrangement made pursuant to Article 17 at any time after the Agreement enters into force.

2. For the purposes of assessing entitlement to a benefit, the date on which a claim, notice or appeal referred to in paragraph 1 is lodged with the Competent Institution of a Party shall be treated as the date of lodgement of that document with the Competent Institution of the other.

3. In relation to Australia, the reference in this Article to an appeal document is a reference to a document concerning an appeal that may be made to an administrative body established by the social security laws of Australia.

ARTICLE 14

Determination of claims

1. In determining the eligibility or entitlement of a person to a benefit by virtue of this Agreement:

- (a) a period as an Australian resident and a period of insurance; and
- (b) any event or fact which is relevant to that entitlement,

shall, subject to this Agreement, be taken into account in so far as those periods, events or facts are applicable in regard to that person no matter when they were accumulated or occurred.

2. 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 shall never be earlier than the date on which this Agreement enters into force and a funeral grant under the legislation of Cyprus shall not be made if the relevant death occurred before this Agreement enters into force.

3. Where:

- (a) a benefit payable by virtue of this Agreement by one of the Parties is claimed or is being paid; and
- (b) there are reasonable grounds for believing that the claimant may also be entitled, whether by virtue of this Agreement or otherwise, to a benefit from the other Party and that, if paid,

would affect the amount of the first mentioned benefit,

that first mentioned benefit shall not be paid or continue to be paid until a claim is duly lodged for payment of the benefit from the other Party or if the claim for the other Party's benefit is not actively pursued.

4. Where:

- (a) a benefit is paid or payable by a Party to a person in respect of a past period; 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 that other Party would have been reduced had the benefit paid or payable by the first Party been paid during that period;

then

- (d) 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
- (e) the other Party may determine that the amount or any part of that debt may be deducted from future payments of a benefit payable by that Party to that person.

5. Where the first Party has not yet paid the benefit described in subparagraph 4(a) to the person:

- (a) that Party shall, at the request of the other Party, pay the amount of the benefit necessary to meet the debt described in subparagraph 4(d) to the other Party and shall pay any excess to the person; and
- (b) any shortfall may be recovered by the other Party under subparagraph 4(e).

6. The Competent Institution receiving a request under paragraph 5 shall transfer the amount of the debt to the Competent Institution making the request.

7. A reference in paragraphs 3, 4 and 5 to a benefit, in relation to Australia, means a pension, benefit or allowance payable under the social security laws of Australia and, in relation to Cyprus, means any pension, benefit or allowance payable under the social insurance laws of Cyprus.

ARTICLE 15

Payment of benefits

1. Benefits of one Party, when payable by virtue of this Agreement, are also payable in the territory of the other Party.

2. Where the legislation of a Party provides that a benefit is payable outside the territory of that Party, then that benefit, when payable by virtue of this Agreement, is also payable outside the territories of both Parties.

3. Subject to Article 7, where qualification for a benefit of one Party is subject to limitations as to time, then references to that Party in those limitations shall be read also as references to the territory of the other Party when that benefit is payable by virtue of this Agreement.

4. If a Party imposes legal or administrative restrictions on the transfer of its currency abroad, both Parties shall adopt measures as soon as practicable to guarantee the rights to payment of benefits derived under this Agreement. Those measures shall operate retrospectively to the time the restrictions were imposed.

5. A benefit payable by a Party by virtue of this Agreement shall be paid by that Party without deduction for government administrative fees and charges for processing and paying that benefit whether the beneficiary is in the territory of the other Party or outside the respective territories of both Parties.

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

Exchange of information and mutual assistance

1. The Competent Authorities and Competent Institutions responsible for the application of this Agreement:

- (a) shall 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, including the communication to each other of any necessary information, with regard to the determination or payment of any benefit under this Agreement or under the social security laws of either Party as if the matter involved the application of their own legislation;
- (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; 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 17.

2. The assistance referred to in paragraph 1 shall be provided free of charge, subject to any Administrative Arrangement made pursuant to Article 17.

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 a Competent Authority or an Institution of that Party by a Competent Authority or an Institution of the other Party is confidential and shall be used only for purposes of implementing this Agreement and the social security laws of either Party.

4. In no case shall the provisions of paragraphs 1 and 3 be construed so as to impose on the Competent Authority or 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 of the other Party.

5. In the application of this Agreement, the Competent Authority and the Institutions of a Party may communicate with the Competent Authority and the Institutions of the other Party in the official language of the first Party.

ARTICLE 17

Administrative Arrangement

The Competent Authorities of the Parties shall make whatever Administrative Arrangement is necessary in order to implement this Agreement.

ARTICLE 18
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 concerning matters which have not been resolved by the Competent Authorities in accordance with paragraph 1.

ARTICLE 19
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 6 months after that request was made and, unless the Parties otherwise agree, their meeting shall be held in the territory of the Party to which that request was made.

PART V
TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 20
Entry into force and termination

1. This Agreement shall enter into force on the first day of the second month after an exchange of notes by the Parties through the diplomatic channel notifying each other that all constitutional or legislative matters as are necessary to give effect to this Agreement have been finalised.

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 a note through the diplomatic channel indicating the intention of the other Party to terminate this 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:

(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,

by virtue of this Agreement.

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

DONE in two copies at Nicosia this twelfth day of May 1992, in the English and Greek languages.

For Australia:

[Signed — Signé]¹

For the Republic
of Cyprus:

[Signed — Signé]²

¹ Signed by David Simmons — Signé par David Simmons.

² Signed by I. Aristidou — Signé par I. Aristidou.