

The National Insurance and Social Security Act

Cap. 47

**THE NATIONAL INSURANCE AND SOCIAL
SECURITY (AGREEMENT ON SOCIAL
SECURITY BETWEEN BARBADOS
AND CANADA) ORDER, 1985**

S.I. 1986/1.

Authority: This order was made on 18th December, 1985 by the Governor General under section 48 of the *National Insurance and Social Security Act*.

Commencement: 1st January, 1986.

1. This Order may be cited as the *National Insurance and Social Security (Agreement on Social Security Between Barbados and Canada) Order, 1985*.

2. In this order

“Agreement” means the Agreement on Social Security between Barbados and Canada signed at Bridgetown on the 11th day of February 1985, the text of which is set out in the Schedule.

Schedule.

3. The *National Insurance and Social Security Act* and the *National Insurance and Social Security Regulations* made under that Act respecting

- (a) old age contributory pension;
- (b) invalidity pension;
- (c) survivors' pension; and

(d) funeral grant,
are to the extent to which they are affected by the Agreement,
deemed to be modified and adapted to give effect to the
Agreement.

SCHEDULE

(Paragraph 2)

AGREEMENT ON SOCIAL SECURITY BETWEEN BARBADOS AND CANADA

The Government of Barbados and the Government of Canada,
Resolved to co-operate in the field of social security,
Have decided to conclude an agreement for this purpose, and,
Have agreed as follows:

PART I

DEFINITIONS AND GENERAL PROVISIONS

Article I

DEFINITIONS

1. For the purposes of this Agreement,
 - (a) "territory" means, as regards Canada, the territory of Canada; and, as regards Barbados, the territory of Barbados;
 - (b) "legislation" means, the laws and regulations specified in Article II;
 - (c) "competent authority" means, as regards Canada, the Minister or Ministers responsible for the administration of the legislation of Canada; and, as regards Barbados, the Minister responsible for National Insurance and Social Security;
 - (d) "competent institution" means, as regards a Party, the competent authority of that Party;

- (e) "creditable period" means, as regards Canada, a period of contributions or residence used to acquire the right to a benefit under the legislation of Canada, and includes a period during which a disability pension is payable under the Canada Pension Plan; and, as regards Barbados, the number of contributions, paid or credited, used to acquire the right to a benefit under the legislation of Barbados or as the context may require, the periods to which those contributions relate;
- (f) "benefit" means, as regards Canada, any cash benefit, pension or allowance for which provision is made in the legislation of Canada and includes any supplements or increases applicable to such a cash benefit, pension or allowance; and, as regards Barbados, old age contributory pension, invalidity pension, survivors' pension and funeral grant for which provision is made in the legislation of Barbados and includes any supplements or increases applicable to such pensions or grants.

2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

Article II

LEGISLATION TO WHICH THE AGREEMENT APPLIES

1. This Agreement shall apply to the legislation listed hereunder, their present and future complements, consolidations and amendments:

(a) with respect to Canada:

(i) The Old Age Security Act and the regulations made thereunder;

and

(ii) the Canada Pension Plan and the regulations made thereunder;

(b) with respect to Barbados:

the National Insurance and Social Security Act and the subsidiary legislation made thereunder, as they relate to:

(i) old age contributory pension,

(ii) invalidity pension,

(iii) survivors' pension, and

(iv) funeral grant.

2. With regard to Part II only, this Agreement shall apply to all aspects of the legislation of Barbados referred to in sub-paragraph 1 (b) of this Article.

3. This Agreement shall apply to laws or regulations which extend the existing legislation to other categories of beneficiaries only if no objection on the part of either Party has been communicated to the other Party within three months of notification of such laws or regulations.

Article III

PERSONS TO WHOM THE AGREEMENT APPLIES AND EQUALITY OF TREATMENT

1. This Agreement shall apply to persons who are or who have been subject to the legislation of both Canada and Barbados referred to in Article II, and to their dependants and survivors, as specified by the applicable legislation of either Party.

2. Subject to the other provisions of this Agreement, a person described in paragraph 1 of this Article, regardless of nationality, shall be subject to the obligations of the legislation of a Party and shall be eligible for the benefits of that legislation under the same conditions as the citizens of that Party.

Article IV

EXPORT OF BENEFITS

1. Unless otherwise provided in this Agreement, benefits acquired by a person described in paragraph 1 of Article III under the legislation of one party, including benefits acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason only of the fact that the beneficiary resides in the territory of the other Party, and they shall be payable in the territory of the other Party.

2. Benefits payable under this Agreement by one Party in the territory of the other Party shall also be payable in the territory of a third State.

PART II

PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article V

1. Subject to the following provisions of this Article,
 - (a) an employed person who works in the territory of one Party shall, in respect of that work, be subject only to the legislation of that Party, and
 - (b) a self-employed person who ordinarily resides in the territory of one party and who works for his own account in the territory of the other Party or in the territories of both Parties shall, in respect of that work, be subject only to the legislation of the former Party.

2. An employed person who is covered under the legislation of one Party and who performs services in the territory of the other Party for the same employer shall, in respect of those services, be subject only to the legislation of the former Party as though those services were performed in its territory. In the case of an assignment, this coverage may not be maintained for more than 24 months without the prior consent of the competent authorities of both Parties.

3. A person who, but for this Article, would be subject to the Canada Pension Plan as well as to the legislation of Barbados in respect of employment as a member of the crew of a ship or aircraft shall, in respect of that employment, be subject only to the legislation of Barbados if he is a resident of Barbados and only to the Canada Pension Plan in any other case.

4. An employed person shall, in respect of the duties of a government employment performed in the territory of the other Party, be subject to the legislation of the latter Party only if he is a citizen thereof or if he ordinarily resides in its territory.

5. The competent authorities of the two Parties may, by common agreement, modify the application of the preceding provisions of this Article with respect to any persons or categories of persons.

Article VI

**DEFINITION OF CERTAIN PERIODS OF RESIDENCE WITH
RESPECT TO THE LEGISLATION OF CANADA**

For the purpose of calculating benefits under the Old Age Security Act:

- (i) if a person is subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada during any period of residence in the territory of Barbados, that period shall be accepted as a period of residence in Canada for that person as well as for his spouse and dependants who reside with him and who are not subject to the legislation of Barbados by reason of employment;
- (ii) if a person is subject to the legislation of Barbados during any period of residence in the territory of Canada, that period shall not be accepted as a period of residence in Canada for that person and for his spouse and dependants who reside with him and who are not subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada by reason of employment;
- (iii) if a person referred to in sub-paragraph (ii) of this Article also becomes subject to the Canada Pension Plan or to the comprehensive pension plan of a province of Canada, by virtue of occupying simultaneously more than one employment, that period shall not be counted as a period of residence in Canada.

PART III

PROVISIONS CONCERNING BENEFITS

CHAPTER I

TOTALIZING OF CREDITABLE PERIODS

Article VII

1. If a person is not entitled to a benefit on the basis of the periods creditable under the legislation of one Party, eligibility for that benefit shall be determined by totalizing these periods and those stipulated in paragraphs 2 and 3 of this Article, provided that the periods do not overlap.
2. (a) For purposes of determining eligibility for a benefit payable by Canada under the Old Age Security Act, a contribution paid or credited under the legislation of Barbados, after the age at which

periods of residence in Canada are creditable for purposes of the Old Age Security Act, shall be accepted as one week of residence in the territory of Canada.

- (b) For purposes of determining eligibility for a benefit payable by Canada under the Canada Pension Plan, a contribution year under the legislation of Barbados during which at least thirteen contributions have been paid or credited shall be accepted as a calendar year for which contributions have been made under the Canada Pension Plan.

3. For purposes of determining eligibility for a benefit payable by Barbados, a year which is a creditable period under the Canada Pension Plan shall be accepted as fifty-two contributions paid under the legislation of Barbados.

Article VIII

1. If the total duration of the creditable periods completed under the legislation of one Party is less than one year as regards the legislation of Canada, or 50 contributions as regards the legislation of Barbados, and if, taking into account only those periods or contributions, no right to a benefit exists under the legislation of that Party, the competent institution of that Party shall not be required to award benefits in respect of those periods or contributions by virtue of this Agreement.

2. These periods or contributions shall, however, be taken into consideration by the competent institution of the other Party to determine eligibility for the benefits of that Party through the application of Article VII.

CHAPTER 2

BENEFITS PAYABLE BY CANADA

Article IX

BENEFITS PAYABLE UNDER THE OLD AGE SECURITY ACT

1. (a) If a person is entitled to payment of a pension in Canada under the Old Age Security Act without recourse to the provisions of this Agreement, but has not accumulated sufficient periods of residence in Canada to qualify for payment of the pension abroad under that Act, a partial pension shall be payable to him outside the territory of Canada if the periods of residence in the territories of the two Parties,

when totalized as provided in Article VII, are at least equal to the minimum period of residence in Canada required by the Old Age Security Act for payment of a pension abroad.

- (b) The amount of the pension payable shall, in this case, be calculated in conformity with the provisions of the Old Age Security Act governing the payment of a partial pension, exclusively on the basis of the periods creditable under that legislation.
2. (a) If a person is not entitled to an Old Age Security pension or spouse's allowance solely on the basis of periods of residence in Canada, a partial pension or spouse's allowance shall be payable to him if the periods of residence in the territories of the two Parties, when totalized as provided in Article VII, are at least equal to the minimum period of residence in Canada required by the Old Age Security Act for payment of a pension or a spouse's allowance.
- (b) The amount of the pension or the spouse's allowance payable shall, in this case, be calculated in conformity with the provisions of the Old Age Security Act governing the payment of a partial pension or spouse's allowance, exclusively on the basis of the periods creditable under that legislation.
3. (a) Notwithstanding any other provision of this Agreement Canada shall not be liable to pay an Old Age Security Pension outside its territory unless the periods of residence in the territories of the two parties, when totalized as provided in Article VII, are at least equal to the minimum period of residence in Canada required by the Old Age Security Act for the payment of a pension abroad.
- (b) The spouse's allowance and the guaranteed income supplement shall be payable outside the territory of Canada only to the extent permitted by the Old Age Security Act.

Article X

BENEFITS PAYABLE UNDER THE CANADA PENSION PLAN

1. (a) If a person is not entitled to a disability pension, disabled contributor's child's benefit, survivor's pension, orphan's benefit or death benefit solely on the basis of the periods creditable under the Canada Pension Plan, but is entitled to that benefit through totalizing

creditable periods as provided in Article VII, the competent institution of Canada shall calculate the amount of the earnings-related portion of such benefit in conformity with the provision of the Canada Pension Plan, exclusively on the basis of the pensionable earnings credited under that legislation.

- (b) The amount of the flat rate portion of the benefit payable under the provisions of this Agreement shall, in this case, be determined by multiplying:
- (i) the amount of the flat rate portion of the benefit determined under the provisions of the Canada Pension Plan
 - (ii) the ratio that the periods of contributions to the Canada Pension Plan represent in relation to the minimum qualifying period for entitlement to that benefit under the Canada Pension Plan.

2. No benefit shall be paid under this Article unless the contributor has reached an age at which his contributory period, as defined in the Canada Pension Plan, is at least equal to the minimum qualifying period under the legislation of Canada for entitlement to the benefit in question.

CHAPTER 3

BENEFITS PAYABLE BY BARBADOS

Article XI

1. If a person is not entitled to an invalidity pension or old age contributory pension solely on the basis of periods creditable under the legislation of Barbados, but would satisfy the minimum contribution conditions for a pension through totalizing of creditable periods as provided in Article VII, the competent institution of Barbados shall count periods creditable under the legislation of Canada only to the extent necessary to establish entitlement to the pension.

2. The average annual insurable earnings used in computing such pension shall be computed exclusively on the basis of the insurable earnings on which contributions under the legislation of Barbados were based.

3. The amount of pension payable in the event of totalizing of creditable periods as provided in Article VII shall be determined by reference to the ratio that the number of contributions under the legislation of Barbados bears to the minimum number of contributions required under that legislation for entitlement to the relevant pension.

THE LAWS OF BARBADOS

4. Where, under the legislation of Barbados, a grant other than a funeral grant was paid in respect of an event which happened before the date of entry into force of this Agreement, and where subsequent entitlement to a corresponding pension is established through the application of Article VII and this Article, the competent institution of Barbados shall deduct from any benefit payable in the form of a pension any amount previously paid in the form of a grant.

PARTIV

ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Article XII

1. The competent authorities and 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 office and furnish assistance to one another with regard to any matter relating to the application of this Agreement as if the matter were affecting 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 insofar as these changes affect the application of this Agreement.

2. The assistance referred to in sub-paragraph 1 (b) of this Article shall be provided free of charge, subject to any agreement reached between the competent authorities of the two Parties for the reimbursement of certain types of expenses.

3. Any information about an individual which is transmitted in accordance with this Agreement to one Party by the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies and for no other purpose.

Article XIII

1. An Administrative Arrangement, agreed to by the competent authorities of the two Parties, shall set out, as required, the conditions under which this Agreement shall be implemented.

2. The liaison agencies of the Parties shall be designated in that Arrangement.

Article XIV

1. Any exemption from or reduction of taxes, legal dues, consular fees or administrative charges for which provision is made in the legislation of one Party in connection with the issuing of any certificate or document required to be produced for the application of that legislation shall be extended to certificates or documents required to be produced for the application of the legislation of the other Party.

2. Any acts or documents of an official nature required to be produced for the application of this Agreement shall be exempt from any authentication by diplomatic or consular authorities or similar formality.

Article XV

For the application of this Agreement, the competent authorities and institutions of the two Parties may communicate directly with one another in any of the official languages of either Party.

Article XVI

1. Any claim, notice or appeal which should, for the purposes of the legislation of one Party, have been presented within a prescribed period to a competent authority or institution of that Party, but which is presented within the same period to a competent authority or institution of the other Party, shall be treated as if it had been presented to the authority or institution of the first Party.

2. A claim for a benefit payable under the legislation of one Party shall be deemed to be a claim for the corresponding benefit payable under the legislation of the other Party, unless the applicant explicitly request that his claim to the benefit of the other Party be delayed.

3. In any case to which the preceding paragraphs of this Article apply, the authority or institution to which the claim, notice or appeal has been submitted shall transmit it without delay to the authority or institution of the other Party.

Article XVII

1. (a) The competent institution of Canada shall discharge its obligations under this Agreement in the currency of Canada.

- (b) The competent institution of Barbados shall discharge its obligation under this Agreement:
- (i) in respect of a beneficiary resident in Barbados, in the currency of Barbados;
 - (ii) in respect of a beneficiary resident in Canada, in the currency of Canada; and
 - (iii) in respect of a beneficiary resident in a third State in the currency of that State or in any currency freely convertible in that State.

2. In the application of sub-paragraphs 1 (b)(ii) and (iii), the conversion rate shall be the rate of exchange in effect on the day when the payment is made.

Article XVIII

The competent authorities of the two Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.

Article XIX

The relevant authority of Barbados and the relevant authority of a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada insofar as those understandings are not inconsistent with the provisions of this Agreement.

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article XX

1. Any creditable period established before the date of entry into force of this Agreement shall be taken into account for the purpose of determining the right to a benefit under the Agreement, other than a lump sum payment under the legislation of Barbados.
2. Subject to the other provisions of this Article, a benefit, other than a lump sum payment, shall be payable under this Agreement in respect of events which happened before the date of entry into force of the Agreement.

A 13 L.R.O. 1988 *National Insurance and Social Security* CAP. 47
(*Agreement on Social Security Between Barbados and Canada*)
Order

3. No provision of this Agreement, however, shall confer any right to receive payment of a benefit for a period before the date of entry into force of the agreement.

Article XXI

1. This Agreement shall enter into force, after the conclusion of the Administrative Arrangement referred to in Article XIII, on the first day of the second month following the date of exchange of the instruments of ratification.

2. With the entry into force of this Agreement, it shall supersede the Agreement between the Government of Canada and the Government of Barbados relating to the Canada Pension Plan, signed in Ottawa on July 4, 1968.

3. This Agreement shall remain in force without any limitation on its duration. It may be denounced at any time by either Party giving twelve months' notice in writing to the other Party.

4. In the event of the termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

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

DONE in duplicate at Bridgetown, in the English and French languages, both versions being equally authentic, this 11th day of February, 1985.

EN FOI DE QUOI, les representants soussignes, dument autorises par leurs Gouvernements respectifs, ont signe le present Accord.

FAIT en double exemplaire à Bridgetown, en francais et en anglais, chaque version faisant egalement foi, ce 11 jour de Fevrier, 1985.

DELISLE O. BRADSHAW
For the Government of Barbados
Pour Le Gouvernement de la Barbade

JAKEPP
for the Government of Canada
Pour le Gouvernement du Canada

THE LAWS OF BARBADOS

Printed by the Government Printing Department, Bay Street, St. Michael,
by the authority of the Government of Barbados

