

## **TITLE V**

### **TRANSITIONAL AND FINAL**

#### **ARTICLE 40**

##### **TRANSITIONAL**

(1) The Agreement does not confer entitlement to payment of benefits for a period before the date of its coming into force.

(2) For the purposes of Chapter 1 of Title III of the Agreement, events occurring and any period of employment or residence completed under the legislation of one Party before the date of the coming into force of the Agreement shall be taken into account in determining the amount of the benefits and the sharing of their cost between the competent institutions.

#### **ARTICLE 41**

##### **COMMUNICATIONS**

(1) The competent authorities and institutions of each Party may communicate with each other in their official language.

(2) A decision by a tribunal or a notice by a competent institution may be addressed directly to a person residing in the territory of the other Party.

#### **ARTICLE 42**

##### **COMING INTO FORCE AND DURATION**

(1) Each contracting Party shall notify the other when the internal procedures required for the coming into force of the Agreement have been completed.

(2) The Parties enter into this Agreement for an indefinite duration from the date of its coming into force, which shall be set by an exchange of letters between the contracting Parties. It may be denounced by either of the Parties by notifying the other Party.

The Agreement expires on the 31<sup>st</sup> day of December which follows the date of such notification by at least 12 months.

(3) If the Agreement is denounced, any entitlement enjoyed by a person under its provisions shall remain in effect, and negotiations shall be undertaken to decide any entitlements in the process of being created under the Agreement.

Done at Québec on the 28<sup>th</sup> day of March 1990, in duplicate, in the French and Portuguese languages, both texts being equally authentic.

For the Gouvernement du Québec

For the Government of Portugal

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O.C. 1807-92, Sch. 1.

## **SCHEDULE 2**

(s. 2)

ADMINISTRATIVE ARRANGEMENT TO THE SUPPLEMENTARY AGREEMENT ON SOCIAL SECURITY BETWEEN QUÉBEC AND PORTUGAL

Considering article 31 of the Agreement, the Parties have agreed as follows:

## **ARTICLE 1**

### **INTERPRETATION**

In this Administrative Arrangement:

- (a) the term "Agreement" means the Supplementary Agreement on Social Security Between the Gouvernement du Québec and the Government of Portugal, signed on 28 March 1990;
- (b) the other terms used have the meaning assigned to them in article 1 of the Agreement.

## **ARTICLE 2**

### **LIAISON AGENCIES**

(1) In accordance with the provisions of paragraph 2 of article 31 of the Agreement, the liaison agencies designated by each of the Parties are:

- (a) for Québec, the Direction de l'administration des ententes de sécurité sociale of the ministère des Communautés culturelles et de l'Immigration;
- (b) for Portugal, the Departamento de Relações Internacionais e Convenções de Segurança Social.

(2) Where the competent authority of one Party designates any other agency, it shall so notify the competent authority of the other Party.

## **ARTICLE 3**

### **CERTIFICATE OF COVERAGE**

(1) For the purposes of articles 7 to 11 of the Agreement, where a person remains subject to the legislation of one Party while working in the territory of the other Party, a certificate of coverage shall be issued:

- (a) by the liaison agency, where the legislation of Québec applies;
- (b) by the social security institution with which the person is affiliated, where the legislation of Portugal applies.

(2) The agency issuing the certificate of coverage shall send a copy of that certificate to the liaison agency of the other Party, to the person in question and, where applicable, to the employer of that person.

(3) For the purposes of paragraph 2 of article 8 of the Agreement, the prescribed approval shall be given:

- (a) for Québec, by the liaison agency after obtaining the consent of the competent institution in question;
- (b) for Portugal, by the liaison agency.

## **ARTICLE 4**

### **PERSONS IN GOVERNMENT SERVICE**

(1) For the purposes of paragraph 2 of article 10 of the Agreement, the employer in question of one Party undertakes to respect the obligations imposed on all employers by the provisions of the legislation of the other Party.

(2) The right of option referred to in paragraph 3 of article 10 of the Agreement shall be exercised within 6 months following the date of recruitment. That option shall be exercised by means of an application for the issue of a certificate of coverage sent to the liaison agency of the Party of which the person is a national, including, where applicable, the documentation required by the legislation of that Party.

## ARTICLE 5

### OCCUPATIONAL ACCIDENT AND DISEASE BENEFITS

(1) For the purposes of article 13 of the Agreement:

(a) a person receiving benefits under the legislation of one Party shall, in order to receive benefits in kind provided by the institution of the other Party, submit to the latter institution an attestation certifying that he is authorized to receive such benefits;

(b) the certificate referred to in subparagraph a shall be issued by the competent institution and, where applicable, shall indicate in particular the maximum time period during which benefits in kind may still be provided under the provisions of the legislation applicable by the competent institution. Where it was not possible to issue it previously, the attestation may be issued after the departure of the person in question for the place of sojourn or new residence, upon application by the person or the institution of the place of sojourn or new residence; in the meantime, the institution of the place of sojourn or residence shall ensure that he is granted benefits in kind in an emergency, at the expense of the competent institution;

(c) where a person applies for benefits under the legislation of one Party while sojourning or residing in the territory of the other Party, he must contact the institution of the place of sojourn or residence and submit a certificate of occupational disability issued by a physician. As soon as possible, that institution shall conduct an administrative verification and, where necessary, a medical examination as it would do for its own insured. The report on the findings of the administrative verification and, where applicable, the report on the medical examination, indicating in particular the probable duration of the occupational disability, shall be transmitted without delay by the institution of the place of sojourn or residence to the competent institution for a decision;

(d) until the decision referred to in subparagraph c is made by the competent institution, the institution of the place of sojourn or residence may provide the benefits in kind, at the expense of the competent institution, if it is of the opinion that the application for benefits appears well-grounded;

(e) the granting by the institution of the place of sojourn or residence of a prosthesis, major apparatus or other benefits in kind that are of major importance or of an unusual nature shall be conditional upon authorization by the competent institution. That authorization shall not be necessary in an emergency or where the cost of the benefit requested does not exceed the amount determined by common agreement by the institutions of both Parties; that amount may be revised periodically. Where an authorization is necessary, the competent institution shall have 30 days to give notice of its opposition, if any, and shall provide reasons therefor. The institution of the place of sojourn or residence shall grant the benefit applied for if it does not receive notice of opposition within that 30-day period;

(f) the person shall be required to inform the institution of the place of sojourn or residence of any change in his situation likely to modify his entitlement to benefits in kind, in particular, any transfer of residence or sojourn. The competent institution shall also inform the institution of the place of sojourn or residence of any cessation of affiliation of the person in question or any termination of his entitlement to benefits in kind. The institution of the place of sojourn or residence may, at any time, ask the competent institution to supply any information relating to any person's affiliation or entitlement to benefits in kind.

(2) For the purposes of article 14 of the Agreement:

(a) a declaration of occupational disease and an application for benefits must be submitted to the institution of the place of residence;

(b) if the legislation of the place of residence applies, the competent institution of that Party shall send to the institution of the other Party, directly or through the liaison agencies, a copy of the

declaration of occupational disease and request an attestation of the periods of risk activity associated with the disease in question completed under the legislation of the latter Party, in order to be able to determine the sharing of the costs of the benefits as provided in paragraph 5 of article 14 of the Agreement;

(c) if the legislation of the place of residence is not applicable, the institution of that Party shall send without delay to the institution of the other Party, directly or through the liaison agencies, the application for benefits, the declaration of occupational disease, the reports containing the findings of expert medical appraisal, and an attestation of periods of risk activity associated with the occupational disease in question completed under the legislation which it applies; until a decision is made, the institution of the place of residence may provide the benefits in kind, if it is of the opinion that the application for benefits appears well-grounded;

(d) in the cases mentioned in subparagraphs *b* and *c*, if the institution of one Party rejects the application for benefits, it shall send the file to the institution of the other Party at the same time that it notifies that institution of its decision. In such a case, the latter institution shall decide if, under the legislation which it applies and taking into account the decision by the other institution to reject the application, the applicant may claim benefits;

(e) in the case referred to in subparagraph *d*, where the institution receiving the file decides that entitlement to benefits exists under the legislation which it applies and if the person in question has exercised a right of appeal from the decision by the institution of the other Party to reject the application, the latter institution shall inform the first Party if, as a result of the appeal, it is required to grant benefits and it shall reimburse its share;

(f) where applicable, the sharing of the cost of benefits pursuant to paragraph 5 of article 14 of the Agreement shall be determined by the institution which pays the benefits.

(3) For the purposes of article 15 of the Agreement:

(a) the provisions of subparagraphs *a*, *b* and *c* of paragraph 2 shall apply by analogy, insofar as necessary;

(b) the competent institution of one Party shall inform the institution of the other Party of any modification to the previous sharing of costs, where applicable, or to the granting of benefits for aggravation.

(4) In accordance with paragraph 3 of article 31 of the Agreement, the Portuguese Caixa Nacional de Seguros de Doenças Profissionais and the Québec Commission de la santé et de la sécurité du travail are designated to assume the dual role of institution of affiliation and institution of the place of residence or sojour for the purposes of Chapter 1 of Title III of the Agreement.

## ARTICLE 6

### HEALTH SERVICE BENEFITS

(1) For the purposes of Chapter 2 of Title III of the Agreement:

(a) in order to receive health services in the territory of Québec, a person must register with the Régie de l'assurance maladie du Québec by means of the registration form prescribed by regulation and submit:

(i) a certificate of selection issued by the ministère des Communautés culturelles et de l'Immigration, in the case of a person referred to in article 21, 24 or 25 of the Agreement, where so required by Québec legislation;

(ii) a certificate issued by the competent institution of Portugal certifying that he is entitled to health services and a certificate of acceptance for work issued by the ministère des Communautés culturelles et de l'Immigration, in the case of a person referred to in article 22 of the Agreement;

(iii) a certificate of coverage issued by the competent institution of Portugal and, where so required by

Québec legislation, a certificate of acceptance for work issued by the ministère des Communautés culturelles et de l'Immigration, in the case of a person referred to in article 23 of the Agreement;

(iv) a certificate issued by the competent institution of Portugal certifying that he is entitled to health services and a certificate of acceptance for studies issued by the ministère des Communautés culturelles et de l'Immigration, in the case of a person referred to in article 26 of the Agreement;

(b) in order to receive health services in the territory of Portugal, a person must register with the Portuguese institution of the place of sojourn or residence by submitting an attestation issued by the competent institution or by the Québec liaison agency certifying that he is entitled to health services and:

(i) an authorization of residence issued by the competent administrative authority of Portugal, in the case of a person referred to in article 21 or 24 of the Agreement;

(ii) for a salaried person, a document proving that his professional activity is registered with the Portuguese work inspection services and, for a self-employed person, a document proving that he fulfils all the conditions for practising the profession in question, in the case of a person referred to in article 22 or 23 of the Agreement;

(iii) a certificate proving that he is a dependant of the person insured in Québec and also an authorization of residence for a person who is not a Portuguese national, issued by the competent administrative authority of Portugal, in the case of a person referred to in article 26 of the Agreement;

(iv) a certificate of acceptance for studies issued by the Portuguese educational institution in question, in the case of a person referred to in article 26 of the Agreement;

(c) for the application of the preceding subparagraph, the Portuguese institution of the place of sojourn or residence is;

- on the continent: the Administração Regional de Saúde competent for the place of sojourn or residence;

- in the Azores Autonomous Region: the Direcção Regional de Saúde, Angra do Heroísmo;

- in the Madeira Autonomous Region: the Direcção Regional de Saúde Pública, Funchal.

(2) For the purposes of article 26 of the Agreement, a student is a person registered full-time in an institution accredited by the department responsible for higher education in Québec or by the authorities responsible for education in Portugal.

## ARTICLE 7

### REIMBURSEMENT BETWEEN INSTITUTIONS

(1) For the purposes of article 39 of the Agreement, at the end of each calendar year, the liaison agency of the Party that has provided benefits or prepared expert appraisements on behalf of or at the expense of the institution of the other Party shall send to the liaison agency of the latter Party a statement of the benefits granted or the fees pertaining to the expert appraisements prepared during the fiscal year in question, indicating the amount owed for each person.

(2) The institution on whose behalf or at whose expense the benefits were provided or the expert appraisements prepared shall reimburse the amount due as soon as possible and not later than three months following the date on which the statement referred to in paragraph 1 is transmitted to it.

Notwithstanding paragraph 1, the Parties agree not to claim reimbursement of the costs of the benefits referred to in paragraph 2 of article 27 of the Agreement.

## ARTICLE 8

### FORMS

Any forms or other documents necessary to implement the procedures prescribed by the Administrative Arrangement shall be determined by common agreement by the competent institutions and the liaison agencies responsible for the application of the Agreement for each of the Parties.

## ARTICLE 9

### STATISTICAL DATA

The liaison agencies of the two Parties shall exchange, in the form agreed upon, statistical data concerning the benefits provided to the beneficiaries during each calendar year under the Agreement. Such data shall include the number of beneficiaries and the total amount of the benefits, listed by benefit category.

## ARTICLE 10

### COMING INTO FORCE AND DENUNCIATION

The Administrative Arrangement comes into force on the same date as the Agreement. Denunciation of the Agreement entails denunciation of the Administrative Arrangement.

Done at Québec on the 28<sup>th</sup> day of March 1990, in duplicate, in the French and Portuguese languages, both texts being equally authentic.

For the Gouvernement du Québec

For the Government of Portugal

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O.C. 1807-92, Sch. 2.

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## REFERENCES

Draft Regulation, 1990 G.O. 2, 2393

O.C. 1807-92, 1992 G.O. 2, 5346