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chapter R-9, r. 13

Regulation respecting the implementation of the Agreement on Social Security between the Gouvernement du Québec and the Government of the Republic of Cyprus

An Act respecting the Québec Pension Plan

(chapter R-9, s. 215)

Tax Administration Act

(chapter A-6.002, ss. 9 and 96)

An Act respecting the Ministère de l'Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail

(chapter M-15.001, s. 10)

1. The Act respecting the Québec Pension Plan (chapter R-9) and the Regulations thereunder apply to any person referred to in the Agreement on Social Security Between the Gouvernement du Québec and the Government of the Republic of Cyprus, signed on 29 August 1990 and appearing in Schedule I.

O.C. 1092-91, s. 1.

2. The Act and those Regulations apply as prescribed in the Agreement and in the Administrative Arrangement consequent thereto appearing in Schedule II.

O.C. 1092-91, s. 2.

3. *(Omitted).*

O.C. 1092-91, s. 3.

SCHEDULE I

(s. 1)

AGREEMENT ON SOCIAL SECURITY BETWEEN QUÉBEC AND THE REPUBLIC OF CYPRUS

The Gouvernement du Québec

and

The Government of the Republic of Cyprus,

Desiring to guarantee to their respective nationals the advantages of the coordination of the social security legislation of Québec and the Republic of Cyprus, have agreed as follows:

TITLE I

GENERAL

ARTICLE 1

INTERPRETATION

In the Agreement, unless a different meaning is indicated by the context:

- (a) «competent authority» means, for Québec, the minister responsible for the application of the legislation referred to in subparagraph a or paragraph 1 of article 2 and, for Cyprus, the Minister of Labour and Social Insurance;
- (b) «competent institution» means the department or agency of Québec or the department or agency of Cyprus responsible for the administration of the legislation referred to in article 2;
- (c) «insurance period» means any year for which contributions have been paid or a disability pension has been paid under the Act respecting the Québec Pension Plan or any other year considered equivalent; and, for the legislation of Cyprus, any year during which a person has had insurable earnings equivalent to at least one quarter of the basic insurable earnings for that year;
- (d) «benefit» means a pension, an annuity, an allowance, a lump sum or other benefit in cash or in kind provided under the legislation of either Party, including any extension, supplement or increase;
- (e) «national» means a Canadian citizen residing in Québec or a person of Cypriot nationality;
- (f) «territory» means, for Québec, the territory of Québec; for Cyprus, the island of Cyprus;

and any term not defined in the Agreement has the meaning assigned to it in the applicable legislation.

ARTICLE 2

MATERIAL SCOPE

1. The Agreement shall apply;

- (a) to the legislation of Québec relative to the Pension Plan; and
- (b) to the legislation of Cyprus relative to Social Insurance (1980-1990) and the Regulations thereunder concerning:
 - (i) retirement benefits;
 - (ii) disability benefits;
 - (iii) surviving spouse's benefits;
 - (iv) orphan's benefits;
 - (v) death benefits.

2. The Agreement shall also apply to any statutory or regulatory instrument amending, supplementing or replacing the legislation referred to in paragraph 1.

3. The Agreement shall also apply to any statutory or regulatory instrument of a Party extending existing plans to new categories of recipients; however, that Party shall be allowed three months from the official publication of such instrument to notify the other Party that the Agreement does not apply.

4. The Agreement shall not apply to a statutory or regulatory instrument covering a new branch of social security unless the Agreement is amended to that effect.

ARTICLE 3

PERSONAL SCOPE

Unless otherwise provided, the Agreement shall apply:

- (a) to nationals of either Party;
- (b) to refugees, within the meaning of article 1 of the Convention Relating to the Status of Refugees of 28 July 1951 and of the Protocol of 31 January 1967 to that Convention;
- (c) to stateless persons, within the meaning of article 1 of the Convention Relating to the Status of Stateless Persons of 28 September 1954;
- (d) to other persons who are or have been subject to the legislation of either Party.

ARTICLE 4

EQUALITY OF TREATMENT

Unless otherwise provided in the Agreement, the persons designated in article 3 shall, in the application of the legislation of a Party, receive the same treatment as the nationals of that Party.

ARTICLE 5

EXPORTATION OF BENEFITS

1. Unless otherwise provided in the Agreement, no benefit acquired under the legislation of one Party or under the Agreement may suffer any reduction, modification, suspension, cancellation or confiscation solely as a result of the beneficiary's residing or sojourning in the territory of the other Party, and such benefit shall be payable in the territory of the other Party.

2. Any benefit which, under the Agreement, is payable by one Party in the territory of the other Party shall also be payable outside the territory of both Parties under the same conditions that the first Party applies to its nationals under its internal legislation.

TITLE II

PROVISIONS RESPECTING THE APPLICABLE LEGISLATION

ARTICLE 6

GENERAL RULE

Subject to articles 7, 8, 9, 10 and 11, a person shall be subject only to the legislation of the Party in whose territory he works.

ARTICLE 7

SELF-EMPLOYED PERSONS

A person residing in the territory of one Party who is self-employed in the territory of the other Party or in the territory of both Parties shall, with respect to such work, be subject only to the legislation of the first Party.

ARTICLE 8

PERSONS ON ASSIGNMENT

1. A person subject to the legislation of one Party and temporarily assigned for a period not exceeding thirty-six months by his employer to the territory of the other Party shall, with respect to such work, be subject only to the legislation of the first Party for the duration of the period during which he is so assigned.

2. Notwithstanding the foregoing, where the duration of the work is extended beyond thirty-six months,

the legislation of the first Party shall remain applicable, provided that the competent institutions of both Parties give their approval.

ARTICLE 9

PERSONS EMPLOYED BY AN INTERNATIONAL CARRIER

1. A person working in the territory of both Parties as a member of the flying personnel of an international carrier that transports passengers or goods by air on its own behalf or on behalf of others and that has its head office in the territory of one party shall be subject to the legislation of that Party.
2. Notwithstanding the foregoing, where that person is employed by a branch or permanent agency which the undertaking has in the territory of a Party other than the territory in which it has its head office, he shall be subject to the legislation of the Party in whose territory that branch or permanent agency is located.
3. Notwithstanding the two preceding paragraphs, where the person works mainly in the territory of the Party where he resides, he shall be subject to the legislation of that Party, even if the undertaking that employs him has no office, branch or permanent agency in that territory.
4. A person who, failing this Agreement, would be subject to the legislation of either of the Parties in respect of his work as a member of a ship's crew shall be subject only to the legislation of Québec if he usually resides in Québec and only to the legislation of Cyprus in all other cases.

ARTICLE 10

PERSONS IN GOVERNMENT SERVICE

1. Any person in government service for one of the Parties and assigned to work in the territory of the other Party shall, with respect to such work, be subject only to the legislation of the first Party.
2. A person who resides in the territory of one Party and is in government service for the other Party shall, with respect to such work, be subject only to the legislation applying in that territory. Notwithstanding the foregoing, where that person is a national of the Party employing him, he may, within six months from the beginning of his employment or the coming into force of the Agreement, elect to be subject to the legislation of that Party.
3. For the purposes of this article, a Canadian citizen not residing in Québec but who is or has been subject to the legislation of Québec shall be deemed to be a Québec national.
4. No provision of this Agreement may be interpreted as contrary to the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961 or the provisions of the Vienna Convention on Consular Relations of 24 April 1963, relative to the legislation referred to in article 2.

ARTICLE 11

DEROGATION FROM THE PROVISIONS ON COVERAGE

The competent authorities of both Parties may agree to derogate from articles 6, 7, 8, 9 and 10 with respect to a person or category of persons.

TITLE III

PROVISIONS RESPECTING BENEFITS

ARTICLE 12

PRINCIPLE OF TOTALIZATION

Where a person has completed insurance periods under the legislation of either Party and is not eligible for a benefit by virtue of the insurance periods completed solely under the legislation of one Party, the

competent institution of that Party shall total together, to the extent necessary to confer entitlement to a benefit under the legislation that it applies, the insurance periods completed under the legislation of both Parties, provided that they do not overlap.

ARTICLE 13

BENEFITS UNDER THE LEGISLATION OF QUÉBEC

1. A person who has been subject to the legislation of both Parties shall be entitled, as well as his dependents, survivors and assigns, to a benefit under the legislation of Québec if, without recourse to totalization as provided for in article 12, he fulfils the conditions prescribed by that legislation for entitlement to a benefit. The competent institution of Québec shall determine the amount of the benefit according to the provisions of the legislation that it applies.

2. If the person referred to in paragraph 1 is not entitled to a benefit without recourse to totalization, the competent institution of Québec shall proceed as follows:

(a) it shall recognize one year of contributions where the competent institution of Cyprus certifies that that person was credited with one insurance period under the legislation of Cyprus, provided that that year falls within the contribution period as defined in the legislation of Québec;

(b) the years recognized under subparagraph *a* shall be totalled together with the insurance periods completed under the legislation of Québec, in accordance with article 12.

3. Where entitlement to a benefit is acquired by virtue of totalization as provided for in paragraph 2, the competent institution of Québec shall determine the amount of the benefit payable as follows:

(a) the amount of the part of the benefit related to earnings shall be calculated according to the provisions of the legislation of Québec;

(b) the amount of the uniform part of the benefit shall be adjusted proportionally to the period in respect of which contributions were paid under the legislation of Québec in relation to the contribution period defined in that legislation.

ARTICLE 14

BENEFITS UNDER THE LEGISLATION OF CYPRUS

1. A person who has been subject to the legislation of both Parties shall be entitled, as well as his dependents, survivors and assigns, to a benefit under the legislation of Cyprus if, without recourse to totalization as provided for in article 12, he fulfils the conditions prescribed by that legislation for entitlement to a benefit. The competent institution of Cyprus shall determine the amount of the benefit according to the provisions of the legislation that it applies.

2. If the person referred to in paragraph 1 is not entitled to a benefit without recourse to totalization, the competent institution of Cyprus shall proceed as follows:

(a) in respect to the benefits referred to in subparagraph *b* of paragraph 1 or article 2, it shall recognize a contribution year credited under the legislation of Québec as an insurance period credited under the legislation of Cyprus;

(b) in respect of retirement benefits, it shall recognize a week of residence considered as such under the Old Age Security Act that applies in the territory of Québec as a week during which contributions based on insurable earnings were paid under the legislation of Cyprus, provided that that week does not fall within a contribution year recognized under subparagraph *a*;

(c) the periods recognized under subparagraphs *a* and *b* shall be totalled together with the insurance periods completed under the legislation of Cyprus, in accordance with article 12.

3. Where entitlement to a benefit is acquired by virtue of totalization as provided for in paragraph 2, the competent institution of Cyprus shall determine the amount of the benefit payable as follows;

(a) the supplementary part of the benefit shall be calculated according to the provisions of the legislation of Cyprus;

(b) the basic amount of the benefit shall be adjusted proportionally to the insurance periods completed under the legislation of Cyprus in relation to the insurance periods completed under the legislation of both Parties.

ARTICLE 15

COMMON PROVISIONS

Where a person is not entitled to a benefit after totalization as provided for in article 13 or article 14, the insurance periods completed under the legislation of a third Party that is bound to each of the Parties by a legal instrument of social security containing provisions relative to totalization of insurance periods shall be taken into account to establish entitlement to benefits, according to the procedures provided for in this Agreement.

TITLE IV

MISCELLANEOUS

ARTICLE 16

ADMINISTRATIVE ARRANGEMENT

1. The terms and conditions for the application of the Agreement shall be set out in an Administrative Arrangement to be agreed to by the Parties.

2. The liaison agency of each Party shall be designated in the Administrative Arrangement.

ARTICLE 17

MUTUAL ASSISTANCE

The competent authorities and institutions shall:

(a) communicate to each other any information required for the application of the Agreement;

(b) assist each other free of charge in any matter concerning the application of the Agreement;

(c) forward to each other any information on measures adopted for purposes of the application of the Agreement or on amendments to their respective legislation insofar as such amendments affect the application of the Agreement; legislation insofar as such amendments affect the application of the Agreement;

(d) inform each other of difficulties encountered in the interpretation or application of the Agreement.

ARTICLE 18

SETTLEMENT OF DISPUTES

1. Any dispute between the two contracting Parties concerning the interpretation or the application of the Agreement shall, insofar as possible, be settled by the competent authorities.

2. If a dispute cannot be settled as provided for in paragraph 1, it shall be referred, at the request of a Party, to a joint commission.

3. The joint commission shall be formed on an *ad hoc* basis.

4. The joint commission shall study the dispute, try to reconcile the Parties and submit recommendations

ARTICLE 19

PROTECTION OF PERSONAL INFORMATION

1. In this article, the word «information» means any indication on the basis of which the identity of a natural or legal person can be easily determined.
2. Unless disclosure is required under the legislation of a Party, any information communicated by an institution of one Party to an institution of the other Party shall be confidential and shall be used exclusively for the application of the Agreement.
3. Access to a file containing information shall be subject to the legislation of the Party in whose territory the file is located.

ARTICLE 20

PAYMENT OF BENEFITS

All benefits are payable directly to the beneficiary in the currency of the Party making the payment or in any other freely convertible currency, without any deduction for administrative costs or for any other costs that may be incurred for the purposes of paying the benefits.

ARTICLE 21

EXEMPTION FROM FEES AND AUTHENTICATION

1. Any exemption from or reduction of fees provided for the legislation of one Party with respect to the issuing of a certificate or document required for the application of that legislation shall be extended to the certificates and documents required for the application of the legislation of the other Party.
2. Any document required for the application of the Agreement shall be exempted from authentication by diplomatic or consular authorities or any other similar formality.

ARTICLE 22

APPLICATION FOR BENEFITS

1. To receive a benefit under the Agreement, a person must submit an application according to the procedures provided for in the Administrative Arrangement.
2. An application for benefits submitted after the coming into force of the Agreement under the legislation of one Party shall be deemed to be an application for the same benefit under the legislation of the other Party if the person:
 - (a) indicates that he intends his application to be considered an application under the legislation of the other Party; or
 - (b) indicates, at the time of the application, that he has already completed insurance periods under the legislation of the other Party.
3. The presumption set forth in the preceding paragraph shall not impede a person from requiring that his application for a benefit under the legislation of the other Party be deferred.

ARTICLE 23

TIME-LIMIT FOR SUBMISSION

1. A request, a statement or an appeal that must, under the legislation of one Party, be submitted within a fixed time limit to the authority or institution of that Party shall be admissible if it is submitted within the

same time limit to the corresponding authority or institution of the other Party. In such a case, the authority or institution of the latter Party shall, without delay, forward that request, statement or appeal to the authority or institution of the first Party.

2. The date on which that request, statement or appeal is submitted to the authority or institution of one Party shall be considered the date of submission to the authority or institution of the other Party.

ARTICLE 24

EXPERT MEDICAL APPRAISEMENT

1. Where the competent institution of one Party so requires, the competent institution of the other Party shall take the necessary measures to provide the requisite expert medical appraisements concerning a person who resides or sojourns in the territory of the latter Party.

2. An expert appraisal referred to in paragraph 1 may not be invalidated by the sole fact that it was produced in the territory of the other Party.

ARTICLE 25

REIMBURSEMENT BETWEEN INSTITUTIONS

1. The competent institution of one Party shall be bound to reimburse the costs pertaining to expert medical appraisements performed at its request by the competent institution of the other Party.

2. The Administrative Arrangement shall fix the terms and conditions of the reimbursement of costs referred to in the preceding paragraph.

ARTICLE 26

COMMUNICATIONS

1. The competent authorities and institutions and the liaison agencies of each Party may communicate with each other in their official language.

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

TITLE V

TRANSITIONAL AND FINAL

ARTICLE 27

TRANSITIONAL

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

2. Subject to the provisions of paragraph 1 of this article:

(a) an insurance period completed before the date of the coming into force of the Agreement shall be taken into account for the purposes of determining entitlement to a benefit under the Agreement;

(b) a benefit, other than a death benefit, is owed under the Agreement even if it is related to an event occurring before the date of its coming into force;

(c) any benefit that, by reason of nationality or residence, has been denied, reduced or suspended shall, at the request of the person in question, be granted or restored from the date of the coming into force of the Agreement;

(d) a benefit granted before the date of the coming into force of the Agreement shall be reviewed upon application by the person in question;

(e) if the application referred to in subparagraphs *c* and *d* of this paragraph is submitted within two years from the date of the coming into force of the Agreement, the entitlements conferred under the Agreement shall be acquired from that date, notwithstanding the provisions of the legislation of either Party relative to prescription of rights;

(f) if the application referred to in subparagraphs *c* and *d* of this paragraph is submitted after the expiry of the two-year time limit following the coming into force of the Agreement, the entitlements not subject to the time limit shall be acquired from the date of the application, subject to more favourable provisions of the applicable legislation;

(g) where a benefit is payable following the application of article 12 and where the application for that benefit is submitted within two years following the date of the coming into force of the Agreement, the entitlements resulting from the Agreement shall be acquired from that date, or from the date of retirement, death or medical disability conferring entitlement to the benefit if that benefit is subsequent thereto, notwithstanding the provisions of the legislation of either Party relative to prescription of rights.

3. For the purposes of article 8, a person who is on assignment at the date of the coming into force of the Agreement shall be deemed to have been on assignment only from that date.

ARTICLE 28

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 the 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 31 December of the year following the year in which such notification is given.

3. If the Agreement expires as the result of a denunciation, any entitlement acquired by a person under its provisions shall be maintained, and negotiations shall be undertaken to decide upon any entitlements in the process of being acquired under the Agreement.

Done at Québec on 29 August 1990, in duplicate, in the French and Greek languages, both texts being equally authentic.

For the Gouvernement du Québec

For the Government of the Republic of Cyprus

O.C. 1092-91, Sch. I.

SCHEDULE II

(s. 2)

ADMINISTRATIVE ARRANGEMENT TO THE AGREEMENT ON SOCIAL SECURITY BETWEEN QUÉBEC AND THE REPUBLIC OF CYPRUS

The Gouvernement du Québec

and

The Government of the Republic of Cyprus,

Considering article 16 of the Agreement on Social Security Between the Gouvernement du Québec and