

chapter R-9, r. 29

## **Regulation respecting the implementation of the Agreement on Social Security between the Gouvernement du Québec and the Government of the Kingdom of Morocco**

### **An Act respecting the Québec Pension Plan**

(chapter R-9, s. 215)

### **Tax Administration Act**

(chapter A-6.002, s. 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 Kingdom of Morocco signed on 25 May 2000 and attached as Schedule 1.

O.C. 303-2010, s. 1.

**2.** That Act and the regulations apply in the manner stipulated in that Agreement and in the Administrative Arrangement for the application of the Agreement, attached as Schedule 2.

O.C. 303-2010, s. 2.

**3.** *(Omitted).*

O.C. 303-2010, s. 3.

## **SCHEDULE 1**

(s. 1)

AGREEMENT ON SOCIAL SECURITY BETWEEN QUÉBEC AND THE KINGDOM OF MOROCCO

THE GOUVERNEMENT DU QUÉBEC

AND

THE GOVERNMENT OF THE KINGDOM OF MOROCCO

Having resolved to co-operate in the social field,

Affirming the principle of equal treatment between all persons who are or were subject to the statutes of either State as regards the application of their social security statutes,

Wishing to guarantee the social insured of both States, as well as their rightful claimants, the rights acquired or in the process of being acquired with respect to old age insurance, retirement, disability insurance, survivors and life insurance,

Have decided to enter into an agreement intended to coordinate the application, to both States' social insured and their rightful claimants, of the statutes of Québec and the Kingdom of Morocco in the field of social security,

and

To that end, have agreed as follows:

## **TITLE 1**

### **GENERAL**

#### **ARTICLE 1**

##### **DEFINITIONS**

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

(a) "competent authority": the Minister from Québec or the Minister from Morocco responsible for the administration of the legislation referred to in Article 2;

(b) "competent institution": for Québec, the Québec department or agency responsible for the administration of the legislation referred to in Article 2; for the Kingdom of Morocco, the fund or agency responsible for the administration of the legislation referred to in Article 2;

(c) "period of insurance": for Québec, any year for which contributions have been paid or for which a disability pension has been paid under the Act respecting the Québec Pension Plan or any other year considered as equivalent; and, for the Kingdom of Morocco, any period of contribution giving entitlement to benefits under the Moroccan legislation referred to in Article 2, or any other period recognized as equivalent or deemed to be a period of insurance;

(d) "benefit": a pension, an annuity, an allowance, a lump sum or any other benefit in cash provided under the legislation of each Party, including any complement, supplement or increase;

(e) "national": for Québec, a person of Canadian citizenship residing in Québec and, for the Kingdom of Morocco, a person of Moroccan citizenship;

(f) "person": a worker, an insured under the legislation of either Party referred to in Article 2 or anyone who has gained rights under the statutes of either Party;

and

any term not defined in the Agreement has the meaning given to it under the applicable legislation.

## **ARTICLE 2**

### **MATERIAL SCOPE**

(1) The Agreement shall apply:

(a) for Québec, to the legislation of Québec concerning the Québec Pension Plan;

(b) for the Kingdom of Morocco:

(i) to the legislation concerning the social security plan as amended or completed, limited to long-term benefits and death allowance;

(ii) to the legislation concerning the retirement allowance group plan;

(iii) to the legislative, regulatory or statutory provisions approved by the public authority related to

particular and special social security plans insofar as they cover employees or persons deemed to be employees and as they relate to common risks and benefits of the legislation respecting social security plans.

(2) The Agreement shall also apply to any statutory or regulatory act which amends, adds to or replaces the legislation referred to in paragraph 1.

(3) The Agreement shall also apply to a statutory or regulatory act of one Party which extends the existing plans to new categories of beneficiaries; notwithstanding the foregoing, that Party may, within three months of the date of official publication of that act, notify the other Party that the Agreement shall not apply to it.

(4) The Agreement shall not apply to a statutory or regulatory act 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 to persons who are or have been subject to the legislation of a Party, to their dependants and survivors within the meaning of the legislation of either Party, as well as to persons who have gained rights under the legislation of any Party.

### **ARTICLE 4**

#### EQUALITY OF TREATMENT

Unless otherwise provided in the Agreement, the persons referred to in Article 3 shall, in the administration of the legislation of a Party, receive the same treatment as the nationals of that Party.

### **ARTICLE 5**

#### EXPORT OF BENEFITS

(1) Unless otherwise provided in the Agreement, benefits acquired under the legislation of one Party, or under the Agreement, shall not be subject to any reduction, modification, suspension, suppression or confiscation by reason only of the fact that the beneficiary resides or is staying in the territory of the other Party, and such benefits shall be payable in the territory of the other Party.

(2) Benefits payable under the Agreement 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 own legislation.

## **TITLE II**

### APPLICABLE STATUTES

### **ARTICLE 6**

#### GENERAL RULE

Unless otherwise provided in the Agreement and subject to Articles 7, 8, 9, 10 and 11, persons shall be subject only to the legislation of the Party in whose territory they are working.

### **ARTICLE 7**

#### SELF-EMPLOYED PERSONS

Persons residing in the territory of one Party and working for their own account 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 their place of residence.

## **ARTICLE 8**

### DETACHED PERSONS

(1) Persons subject to the legislation of one Party and temporarily detached by their employers, for a period not exceeding thirty-six months, to the territory of the other Party shall, with respect to such work, be subject only to the legislation of the first Party during the term of their detachment.

(2) However, if the time required to complete the work extends over thirty-six months, with such extension not exceeding twenty-four months unless there are exceptional circumstances, the legislation of the first Party may continue to apply provided that the competent authority of Morocco and the competent institution of Québec give their approval.

(3) The provisions of paragraph 1 apply to persons who are assigned to work in a facility located on the continental shelf of a Party for exploring the marine soil or subsoil of that region or for developing its natural resources.

## **ARTICLE 9**

### TRAVELLING PERSONNEL EMPLOYED BY AN INTERNATIONAL CARRIER

(1) Persons who work in the territory of both Parties as travelling personnel for an international carrier which, on behalf of others or on its own account, transports passengers or goods by air or by sea, and which has its head office in the territory of one Party, shall be subject to the legislation of that Party.

(2) Notwithstanding the preceding paragraph, if those persons are employed by a branch or permanent agency which the undertaking has in the territory of one Party other than the Party in whose territory it has its head office, they shall be subject only to the legislation of the Party in the territory of which the branch or permanent agency is located.

(3) Notwithstanding the two preceding paragraphs, if the persons are employed wholly or mainly in the territory of the Party where they reside, they shall be subject to the legislation of that Party, even if the undertaking which employs them has neither its head office nor a branch or permanent agency in that territory.

(4) A person who, in the absence of this Article, would be subject to the legislation of both Parties for work as a crew member of a ship or plane shall, with respect to such work, be subject only to the legislation of Québec if the person ordinarily resides in Québec and only to the legislation of the Kingdom of Morocco in any other case.

## **ARTICLE 10**

### PERSONS IN GOVERNMENT SERVICE

(1) Persons in Government Service for one of the Parties and assigned to a posting in the territory of the other Party shall be subject only to the legislation of the first Party for all matters relative to that post.

(2) Persons residing in the territory of one Party and being in that territory in Government Service for the other Party shall, with respect to that service, be subject only to the legislation applicable in that territory. However, if those persons are nationals of the Party employing them, they may, within six months from the start of the employment or the coming into force of the Agreement, elect to be subject only to the legislation of that Party.

(3) For the purposes of this Article, a Canadian citizen who does not reside in Québec but who is or has been subject to the legislation of Québec is presumed to be a Québec national.

## **ARTICLE 11**

### DEROGATION FROM THE PROVISIONS ON COVERAGE

The competent authorities of both Parties may, by mutual agreement, derogate from the provisions of Articles 6, 7, 8, 9 and 10 with respect to any persons or categories of persons.

### **TITLE III**

#### **BENEFITS**

#### **ARTICLE 12**

##### **PRINCIPLE OF TOTALIZATION**

Where persons have completed periods of insurance under the legislation of both Parties and are not eligible for benefits by virtue of the periods of insurance completed solely under the legislation of one Party, the competent institution of that Party shall totalize, to the extent necessary for entitlement to benefits under the legislation applied by it, the periods of insurance completed under the legislation of each Party, provided that they do not overlap.

#### **ARTICLE 13**

##### **BENEFITS UNDER QUÉBEC LEGISLATION...**

(1) If persons who have been subject to the legislation of both Parties meet the requirements for entitlement to benefits, for themselves or for their dependants, survivors or other rightful claimants, under Québec legislation without having recourse to the totalization mentioned in Article 12, the competent institution of Québec shall determine the amount of benefits in accordance with the provisions of the legislation it applies.

(2) If the persons referred to in paragraph 1 do not fulfill the requirements for entitlement to benefits without having recourse to totalization, the competent institution of Québec shall proceed as follows:

(a) it shall recognize one year of contributions when the competent institution of the Kingdom of Morocco certifies that a period of insurance of at least 78 days has been credited in a calendar year under the legislation of the Kingdom of Morocco, provided that the year is included in the contributory period as defined in Québec legislation;

(b) years recognized under subparagraph a shall be totalized with periods of insurance completed under Québec legislation, in accordance with Article 12.

(3) When the totalization prescribed in paragraph 2 entitles persons to benefits, the competent institution of Québec shall determine the amount payable as follows:

(a) that part of the benefit which is related to earnings is calculated according to the provisions of Québec legislation;

(b) the amount of the flat-rate portion of the benefit is adjusted in proportion to the period for which contributions were paid under the legislation of Québec in relation to the contributory period defined in that legislation.

#### **ARTICLE 14**

##### **BENEFITS UNDER THE LEGISLATION OF THE KINGDOM OF MOROCCO**

(1) When persons who have been subject to the legislation of both Parties meet the requirements for entitlement to benefits, for themselves or for their dependants, survivors or other rightful claimants, under the legislation of the Kingdom of Morocco without having recourse to the totalization mentioned in Article 12, the competent institution of the Kingdom of Morocco shall determine the amount of benefits in accordance with the provisions of the legislation it applies.

(2) If the persons referred to in paragraph 1 do not fulfill the requirements for entitlement to benefits without totalization, the competent institution of the Kingdom of Morocco shall proceed as follows:

(a) it shall recognize, as regards any year beginning on or after 1 January 1966, three hundred twelve (312) days of contribution under the statutes of the Kingdom of Morocco where the competent institution of Québec certifies that the person was credited a period of insurance under the legislation of Québec for each of those years;

(b) if the total number of days required to receive benefits is not reached having applied the preceding subparagraph, a day that is a period eligible for the purposes of the Old Age Security Act which applies in the territory of Québec and that is not part of a period of insurance under the legislation of Québec shall be considered a day of contribution under the legislation of the Kingdom of Morocco, up to a maximum of 312 days per year;

(c) days recognized under subparagraphs *a* and *b* shall be totalized with the periods of insurance completed under the legislation of the Kingdom of Morocco, in accordance with Article 12.

(3) where the totalization prescribed in paragraph 2 entitles persons to benefits, the competent institution of Morocco shall determine the amount payable as follows:

(a) it shall first determine the amount of benefits that the insured person could claim if all the periods of insurance or eligible periods had been completed under its own legislation only;

(b) the benefits due shall be determined by reducing the amount of benefits determined in the preceding subparagraph in proportion to the actual or deemed periods of insurance completed under the legislation of the Kingdom of Morocco in relation to all the periods of insurance totalized pursuant to Article 12.

(4) For the purposes of the preceding paragraph, where entitlement to benefits is acquired by totalizing only the periods of insurance in accordance with subparagraph *a* of paragraph 2 of this Article, the eligible periods under the Old Age Security Act which applies in the territory of Québec shall not be taken into account to calculate the benefits due.

## **ARTICLE 15**

### **SPECIAL PLANS**

(1) Where the legislation of the Kingdom of Morocco provides that the granting of benefits under a special plan is subject to the condition that the periods of insurance be completed in a specific profession or employment, the periods completed under the legislation of Québec shall be taken into account to determine whether a person is entitled to benefits if the periods were completed in the same profession or the same type of employment.

(2) If a person does not fulfil the conditions required to be entitled to the said benefits even with the totalization provided for in paragraph 1, the periods completed under the special plan shall be taken into account in order to grant benefits under the general plan.

## **ARTICLE 16**

### **AMOUNT OF THE SURVIVORS' PENSION...**

(1) Where the death giving rise to a survivors' pension occurs before the worker's old age pension is determined, the benefits due to rightful claimants shall be liquidated on the conditions set in Article 14 or 15.

(2) A widow's pension shall be paid to the beneficiaries according to the conditions provided by the personal status of the deceased insured person.

## **ARTICLE 17**

### **PERIODS COMPLETED UNDER THE LEGISLATION OF THIRD PARTIES**

If a person is not entitled to benefits after the totalization provided for in Article 13, 14 or 15, the periods of insurance completed under the legislation of a third party that is related to both Parties by a legal

instrument respecting social security and making provisions for the totalization of periods of insurance shall be taken into account to determine if the person is entitled to benefits, in accordance with the provisions of this Title.

#### **TITLE IV**

MISCELLANEOUS...

#### **ARTICLE 18**

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 competent authorities.

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

#### **ARTICLE 19**

CLAIM FOR BENEFITS

(1) To be entitled to a benefit under the Agreement, a person must file a claim in accordance with the terms and conditions set out in the Administrative Arrangement.

(2) A claim for a benefit filed under the legislation of one Party after the date of coming into force of the Agreement shall be deemed to be a claim for a corresponding benefit under the legislation of the other Party

(a) where a person asks that the claim be considered as a claim under the legislation of the other Party; or

(b) where a person indicates, at the time of the claim, that periods of insurance have been completed under the legislation of the other Party.

The date of the receipt of such a claim shall be presumed to be the date on which that claim was received under the legislation of the first Party.

(3) The presumption set out in the preceding paragraph shall not prevent a person from requesting that a claim for benefits under the legislation of the other Party be deferred.

#### **ARTICLE 20**

PAYMENT OF BENEFITS

(1) Cash benefits shall be payable directly to a beneficiary without any deduction for administrative charges or for any other expenses incurred in paying the benefits.

(2) Benefits under that Agreement shall be paid by the competent institutions of Québec and of the Kingdom of Morocco in tender that is legal in the place of residence of the beneficiary.

(3) For the purposes of paragraph 2, where an exchange rate is required, the rate shall be the official exchange rate in force on the day payment is made.

#### **ARTICLE 21**

DEADLINE FOR FILING

(1) A request, a declaration or an appeal which, under the legislation of one Party, must be filed within a prescribed time with the authority or institution of that Party shall be accepted if filed within the same time period with the corresponding authority or institution of the other Party. In such a case, the authority or institution of the second Party shall immediately forward the request, declaration or appeal to the

authority or institution of the first Party.

(2) The date on which the request, declaration or appeal is filed with the authority or institution of one Party shall be considered the date of filing with the authority or institution of the other Party.

## **ARTICLE 22**

### MEDICAL EXAMINATION REPORTS

(1) At the request of the competent institution of one Party, the competent institution of the other Party shall make the necessary arrangements to provide the medical examination reports required for persons residing or staying in the territory of the latter Party.

(2) The medical examination reports referred to in paragraph 1 shall not be considered invalid solely because they have been made in the territory of the other Party.

## **ARTICLE 23**

### EXEMPTION OF FEES AND AUTHENTICATION

(1) Any reduction or exemption of fees provided for in the legislation of one Party with respect to the issuing of a certificate or document required for the purposes of that legislation shall be extended to the certificates and documents required for the purposes of the legislation of the other Party.

(2) Any document required for the application of the Agreement shall be exempt from authentication by the competent authorities or from any other similar procedure.

## **ARTICLE 24**

### PROTECTION OF PERSONAL INFORMATION

(1) In this Article, "information" means any information from which the identity of a natural or a legal person may be easily established.

(2) Unless disclosure is required under the legislation of one 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 personal information shall be subject to the legislation of the Party in whose territory the file is located.

## **ARTICLE 25**

### MUTUAL ASSISTANCE

The competent authorities, institutions or liaison agencies 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 the application of the Agreement or on amendments to their legislation to the extent that such amendments affect the application of the Agreement;

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

## **ARTICLE 26**

### REIMBURSEMENT BETWEEN INSTITUTIONS



(1) The competent institution of one Party shall reimburse to the competent institution of the other Party the costs related to each medical examination report produced in accordance with Article 22. Notwithstanding the foregoing, the transmission of medical information or other information already in the possession of the competent institutions shall constitute an integral part of administrative assistance and shall be performed without charge.

(2) The Administrative Arrangement shall provide for the terms and conditions of the reimbursement of costs referred to in the previous paragraph.

## **ARTICLE 27**

### COMMUNICATION

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

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

## **ARTICLE 28**

### SETTLEMENT OF DISPUTES

Disputes concerning the interpretation or the application of the Agreement shall be settled, to the extent possible, by the competent authorities of both Parties.

## **TITLE V**

### TRANSITIONAL AND FINAL

## **ARTICLE 29**

### TRANSITIONAL

(1) The Agreement shall not confer any right to the payment of benefits for a period preceding the date of its coming into force.

(2) Subject to the provisions of paragraph 1,

(a) a period of insurance completed prior to the date of the coming into force of the Agreement shall be taken into consideration for the purposes of determining entitlement to benefits under the Agreement;

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

(c) where benefits are payable pursuant to Article 12 and when the claim for such benefits is made within two years from the date of the coming into force of the Agreement, rights arising from the Agreement shall be acquired from that date or from the date of retirement, death or invalidity as confirmed by a medical report creating the right to benefits if such date follows, notwithstanding the provisions of the legislation of both Parties relative to the forfeiture of rights;

(d) benefits granted before the date of the coming into force of the Agreement shall be revised, at the request of the person in question. It may also be revised *ex officio*. If the revision leads to benefits lower than those which were paid before the coming into force of the Agreement, the amount of benefits previously paid shall be maintained;

(e) if a request referred to in subparagraph *d* is filed within two years of the date of the coming into force of the Agreement, rights arising from the Agreement shall be acquired from that date, notwithstanding the provisions of the legislation of both Parties relative to the forfeiture of rights;

(f) if a request referred to in subparagraph *d* is filed after the limit of two years following the coming into force of the Agreement, rights which are not forfeited shall be acquired from the date of the request, unless there are more favourable provisions in the applicable legislation.

(3) For the purposes of Article 8, a person already detached at the date of the coming into force of the Agreement shall be deemed to have become detached on that date.

## ARTICLE 30

### EXTENSION OF SCOPE

This Agreement may be extended to other branches of social security. If so, the extension shall be the subject of complementary Agreements.

## ARTICLE 31

### COMING INTO FORCE AND TERM

(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 Agreement is entered into for an indefinite term as of the date of its coming into force, which shall be fixed by an exchange of letters between the contracting Parties. It may be denounced by either Party by notifying the other Party. The Agreement shall expire on the 31st day of December which follows the date of notification by at least twelve months.

(3) If the Agreement is terminated following a denunciation, all rights acquired by a person under the provisions of the Agreement shall be maintained and negotiations shall be entered into so as to rule on the rights in the process of being acquired under the Agreement.

Done at Rabat on 25 May 2000, in two copies, in French and in Arab, both texts being equally authentic.

For the Gouvernement du Québec

For the Government of the Kingdom of Morocco

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LOUISE BEAUDOIN,

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KHALID ALIOUA,

*Minister of International Relations*

*Minister of Social Development, Solidarity,*

*Employment and Professional Training*

O.C. 303-2010, Sch. 1.

## SCHEDULE 2

(s. 2)

ADMINISTRATIVE ARRANGEMENT FOR THE IMPLEMENTATION OF THE AGREEMENT ON SOCIAL SECURITY BETWEEN QUÉBEC AND THE KINGDOM OF MOROCCO

CONSIDERING Article 18 of the Agreement on Social Security between Québec and the Kingdom of Morocco, the competent authorities:

- for the Gouvernement du Québec: the Minister of International Relations;
- for the Government of the Kingdom of Morocco: the Minister of Social Development, Solidarity, Employment and Professional Training;

Wishing to implement the Agreement,