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chapter R-9, r. 35

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

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 made thereunder shall apply to any person referred to in the Agreement on Social Security between the Gouvernement du Québec and the Government of the Czech Republic, signed at Quebec on 19 February 2002 and appearing as Schedule I.

O.C. 977-2003, s. 1.

2. That Act and those regulations shall apply in the manner stipulated in the Agreement, and in the Administrative Arrangement for the implementation of the Agreement which appears as Schedule II.

O.C. 977-2003, s. 2.

3. *(Omitted).*

O.C. 977-2003, s. 3.

SCHEDULE I

(s. 1)

AGREEMENT ON SOCIAL SECURITY BETWEEN THE GOUVERNEMENT DU QUÉBEC AND THE GOVERNMENT OF THE CZECH REPUBLIC

THE GOUVERNEMENT DU QUÉBEC

AND

THE GOVERNMENT OF THE CZECH REPUBLIC

hereinafter referred to as “the Parties”,

RESOLVED to guarantee to their nationals the advantages of the coordination of their social security statutes,

HAVE AGREED AS FOLLOWS :

TITLE I

GENERAL

ARTICLE 1

DEFINITIONS

In this Agreement, the following expressions shall mean :

(a) “competent authority” : the Minister from Québec or the Minister from the Czech Republic responsible for the administration of the statutes referred to in Article 2 ;

(b) “competent institution” : the Québec department or body or the body from the Czech Republic responsible for the administration of the statutes referred to in Article 2 ;

(c) “statutes” : with reference to the Parties, the laws and regulations of Québec or of the Czech Republic concerning the branches and social security plans referred to in Article 2 ;

(d) “period of insurance” : as regards 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, as regards the Czech Republic, a period of insurance, substitute period or equivalent period under the statutes of the Czech Republic ; however, a period completed in the former Czechoslovakia shall be considered as a period of insurance under the statutes of the Czech Republic only to the extent stipulated in the Agreement between the Czech Republic and the Slovak Republic on Social Security of 29 October 1992 ;

(e) “benefit” : an annuity, an allowance, a lump-sum grant or any other benefit in cash provided for in the statutes referred to in Article 2, including any extension, supplement or increase thereto ;

(f) “national” : with reference to the Parties, a person of Canadian citizenship who is or who has been subject to the statutes referred to in Article 2 (1) a and has acquired rights under such statutes, or a person of Czech citizenship ;

(g) “territory” : with reference to the Parties, the territory of Québec or the territory of the Czech Republic ;

and any term not defined in the Agreement has the meaning given to it in the applicable statutes.

ARTICLE 2

MATERIAL SCOPE

(1) The Agreement shall apply

(a) to the Québec statutes concerning the Québec Pension Plan ; and

(b) to the statutes of the Czech Republic concerning pension insurance.

(2) The Agreement shall equally apply to any statutes that modify, add to or replace the statutes referred to in paragraph 1.

(3) The Agreement shall also apply to statutes that extend the existing systems to new classes of beneficiaries or to new benefits ; notwithstanding the preceding, each Party may, within three months of the date of the official publication of those statutes, notify the other Party that the Agreement shall not apply to such statutes.

(4) The Agreement shall not apply to statutes which cover a new branch of social security, unless the Agreement is modified to that effect.

ARTICLE 3

PERSONAL SCOPE

Unless otherwise provided, the Agreement shall apply to

- (a) any person who is or who has been subject to the statutes of one or both of the Parties ;
- (b) any person who has derived rights under such statutes from a person referred to in subparagraph a.

ARTICLE 4

EQUAL TREATMENT

Unless otherwise provided in the Agreement, the persons designated in Article 3 shall, in the administration of the statutes of one Party, receive the same treatment as the nationals of that Party.

ARTICLE 5

EXPORT OF BENEFITS

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

(2) Any benefit payable under the Agreement shall also be payable outside the territory of both Parties, under the same conditions that the Party paying the benefits applies to its nationals.

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 working in the territory of one Party shall be subject only to the statutes of that Party.

ARTICLE 7

SELF-EMPLOYED PERSONS

Persons residing in the territory of one Party and working as self-employed persons 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 statutes in the territory of their place of residence.

ARTICLE 8

DETACHED PERSONS

(1) Persons subject to the statutes of one Party and temporarily detached by their employer, for a period not exceeding 60 months, to the territory of the other Party shall, with respect to such work, be subject to the statutes of the first Party during the term of their detachment.

(2) However, if the time required to complete the work extends beyond sixty months, the statutes of the first Party shall continue to apply provided that the competent institutions of both Parties give their approval.

ARTICLE 9

TRAVELLING PERSONNEL EMPLOYED IN INTERNATIONAL TRANSPORT

(1) Persons working in the territory of both Parties as travelling personnel for an international air or marine carrier that has its head office in the territory of one of the Parties shall, with respect to such work, be subject only to the statutes of the Party in whose territory the head office is located.

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

(3) Notwithstanding paragraphs 1 and 2, if the persons are employed mainly in the territory of a Party, and if they reside in the territory of that Party, they shall, with respect to such work, be subject only to the statutes of that Party, even if the undertaking that employs them has neither its head office nor a branch or permanent agency in that territory.

ARTICLE 10

PERSONS IN GOVERNMENT SERVICE

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

(2) Persons residing in the territory of one Party and who are in Government Service for the other Party in that territory shall, with respect to that service, be subject only to the statutes which apply to that territory. Notwithstanding the foregoing, if those persons are nationals of the Party that employs them, they may, within six months of the beginning of their employment or of the coming into force of the Agreement, choose to be subject only to the statutes of the employing Party.

ARTICLE 11

DEROGATION FROM THE PROVISIONS ON COVERAGE

At the joint request of a person and that person's employer, or at the request of a self-employed person or, where applicable, a person working of his or her own initiative, the competent authorities of both Parties or their designated agencies may, by common agreement, derogate from the provisions of Articles 6, 7, 8, 9 and 10 with respect to any persons or category of persons.

TITLE III

BENEFITS

ARTICLE 12

BENEFITS COVERED

(1) This Title applies to all benefits referred to in the Act respecting the Québec Pension Plan.

(2) This Title also applies to all benefits referred to in the statutes of the Czech Republic concerning pension insurance.

ARTICLE 13

PRINCIPLE OF TOTALIZATION

(1) When persons have completed periods of insurance under the statutes of both Parties and are not eligible for benefits by virtue of the periods of insurance completed solely under the statutes of one Party, the competent institution of that Party shall proceed, to determine eligibility for benefits under the statutes applied by it, with totalization as prescribed by the provisions of paragraphs 2 and 3, counting any

overlapping periods only once.

(2) For the purposes of eligibility for benefits under the statutes of the Act respecting the Québec Pension Plan, the competent institution of Québec shall proceed as follows :

(a) it shall recognize one year of contribution when the competent institution of the Czech Republic certifies that a period of insurance of at least 90 days has been credited in a calendar year under the statutes of the Czech Republic, provided that the year is included in the contributory period as defined in Québec statutes ;

(b) it shall totalize the years recognized under subparagraph a with periods of insurance completed under Québec statutes.

(3) For the purposes of eligibility for benefits under the statutes of the Czech Republic, the competent institution of the Czech Republic shall proceed as follows :

(a) with respect to eligibility for a retirement, disability or survivors' pension :

(i) it shall recognize each year of insurance certified by the competent institution of Québec as one year of insurance under the statutes of the Czech Republic ;

(ii) if a person is not eligible for a retirement or survivors' pension notwithstanding the application of subparagraph a i, it shall recognize one day of contribution under the statutes of the Czech Republic for each day of residence within the meaning of the Old Age Security Act which applies in the territory of Québec, provided that such day does not overlap a period of insurance completed under Québec statutes ;

(b) periods recognized under subparagraph a shall be totalized with the periods of insurance completed under the statutes of the Czech Republic.

ARTICLE 14

PERIODS COMPLETED UNDER THE STATUTES OF THIRD PARTIES

If a person is not eligible for a benefit on the basis of the totalization provided for in Article 13, the periods of insurance completed under the statutes of the 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.

ARTICLE 15

MINIMUM PERIOD TO BE TOTALIZED

If the total duration of the periods of insurance completed by a person under the statutes of one Party is less than one year and if, taking into account only those periods, no right to a benefit has been gained under the statutes of that Party, the competent institution of that Party shall not be required to pay a benefit to that person for those periods under the Agreement.

ARTICLE 16

BENEFITS UNDER QUÉBEC STATUTES

(1) If persons who have been subject to the statutes of both Parties meet the requirements for entitlement to benefits, for themselves or for their dependants, survivors or successors, under Québec statutes, without having recourse to the totalization referred to in Article 13 and, where applicable, in Article 14, the competent institution of Québec shall determine the amount of the benefits in accordance with the provisions of the statutes it applies.

(2) When the totalization provided for in Article 13 and, where applicable, in Article 14 entitles persons to benefits, the competent institution of Québec shall determine the amount payable by adding the

amounts calculated in accordance with subparagraphs *a* and *b* as follows :

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

(*b*) the amount of the flat-rate portion of the benefit payable under the provisions of this Agreement shall be determined by multiplying :

the amount of the flat-rate portion of the benefit determined under the provisions of the Québec Pension Plan

by

the fraction which represents the ratio between the periods of contributions to the Québec Pension Plan in relation to the contributory period as defined in the statutes regarding that Plan.

ARTICLE 17

BENEFITS UNDER THE STATUTES OF THE CZECH REPUBLIC

(1) If, under the statutes of the Czech Republic, the conditions for eligibility for a benefit are met without the need to take into account periods of insurance completed under the statutes of Québec, the competent institution of the Czech Republic shall determine the amount of that benefit exclusively on the basis of the periods of insurance completed under its statutes.

(2) If, under the statutes of the Czech Republic, eligibility for a benefit can be established only through the application of the totalizing provisions in Article 13 and, where applicable, in Article 14, the competent institution of the Czech Republic

(*a*) shall calculate the theoretical amount of the benefit which would be paid if the totalized periods of insurance had been completed under the statutes of the Czech Republic alone ; and

(*b*) on the basis of the theoretical amount calculated in accordance with subparagraph *a*, shall determine the amount of the benefit payable by applying the ratio between the periods of insurance completed under the statutes of the Czech Republic and the totalized periods of insurance.

(3) For the purpose of determining the reference salary used to calculate the amount of the benefit, periods of insurance completed under the statutes of Québec shall be excluded.

(4) A supplement due to infirmity which is payable to a person whose eligibility for a benefit has been determined by applying totalization as provided in Article 13 and, where applicable, in Article 14 shall be calculated in accordance with the formula specified in subparagraph *b* of paragraph 2.

ARTICLE 18

RESTRICTIONS

(1) The provisions of the Czech statutes concerning the reduction, suspension or suppression of benefits when they overlap with other benefits or when the beneficiary derives other income or holds gainful employment shall also apply to a person who receives benefits under Québec statutes or who derives other income or holds gainful employment outside the Czech Republic. The preceding provision, however, shall not apply when disability, old-age or survivors' benefits that have been granted by the competent institutions of both Parties overlap.

(2) The competent authority of the Czech Republic may, in regard to benefit recipients under its statutes, limit the application of the statutory provisions referred to in paragraph 1 concerning the reduction, suspension or suppression of benefits which overlap with other benefits, or it may entirely waive the application of those provisions. Those provisions shall not be applied in all cases in which their application would result in the granting of a benefit that is lower than it would be through the application of the provisions of the statutes of the Czech Republic concerning overlapping benefits in regard to a State with which the Czech Republic has not concluded an international agreement on social security.

(3) A person whose disability began before that person reached age 18 and who has not participated in an insurance plan in the Czech Republic for the necessary period shall acquire the right to a full disability pension if that person is a permanent resident of the Czech Republic.

TITRE IV

MISCELLANEOUS

ARTICLE 19

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 20

CLAIM FOR BENEFITS

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

(2) For the purposes of Title III, a claim for a benefit filed under the statutes 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 statutes of the other Party, in any of the following cases :

(a) when a person asks that the claim be considered as a claim under the statutes of the other Party ;

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

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

(3) The presumption set out in paragraph 2 shall not prevent a person from requesting that a claim for benefits under the statutes of the other Party be deferred.

ARTICLE 21

PAYMENT OF BENEFITS

(1) Cash benefits under the statutes of Québec shall be payable directly to the beneficiary in Canadian currency or in a currency freely convertible in the place of residence of the beneficiary.

(2) Cash benefits under the statutes of the Czech Republic shall be payable directly to the beneficiary in a currency freely convertible in the place of residence of the beneficiary.

(3) The competent institution of either Party shall pay the benefits under the Agreement, without any deduction for administrative charges.

ARTICLE 22

DEADLINE FOR FILING

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

institution of the latter 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 the other Party shall be considered as the date of filing with the authority or institution of the other Party.

ARTICLE 23

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 24

EXEMPTION FROM FEES AND AUTHENTICATION

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

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

ARTICLE 25

DISCLOSURE OF PERSONAL INFORMATION

(1) Any personal 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.

(2) Access to a file containing personal information shall be subject to the statutes of the Party on whose territory the file is located.

ARTICLE 26

MUTUAL ASSISTANCE

The competent authorities and institutions shall

- (a) communicate to each other any information required for the application of the Agreement ;
- (b) forward to each other any information on the measures adopted for the application of the Agreement or on amendments to their statutes to the extent that such amendments affect the application of the Agreement ;
- (c) inform each other of the difficulties encountered in the interpretation or in the application of the Agreement ; and
- (d) assist each other free of charge in any matter concerning the application of the Agreement.

ARTICLE 27

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 23.

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 paragraph 1.

ARTICLE 28

COMMUNICATION

The competent authorities and competent institutions and liaison agencies of the Parties may communicate directly with one another and with the persons concerned in French or in Czech.

ARTICLE 29

SETTLEMENT OF DISPUTES

(1) Any dispute concerning the interpretation or the application of this Agreement shall be settled by negotiations between the competent institutions.

(2) Any dispute which is not resolved through the application of paragraph 1 shall be settled by the competent authorities.

(3) If a dispute cannot be settled in the manner provided for in paragraphs 1 and 2, it shall be subject to negotiations between the Parties.

TITRE V

TRANSITIONAL AND FINAL

ARTICLE 30

TRANSITIONAL PROVISIONS

(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) For the purposes of Title III and subject to the provisions of paragraph 1 :

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

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

(c) where the conditions required to establish the entitlement to benefits are met pursuant to Article 13 and, where applicable, to Article 14 and when the claim for such benefits is produced within two years of the date of 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 disability as confirmed by a medical report creating the right to benefits if such date follows, unless there are more favourable provisions for beneficiaries in the applicable statutes ;

(d) a benefit which, on account of nationality or residence, has been refused, reduced or suspended shall, at the request of the person in question, be granted or re-established from the date of coming into force of the Agreement ;

(e) benefits granted before the date of coming into force of the Agreement shall be revised, at the request of the person in question. They may also be revised of their own motion. If the revision leads to benefits that are lower than the benefits paid before the coming into force of the Agreement, the amount of benefits previously paid shall be maintained ;

(f) if a request referred to in subparagraph *d* or *e* is filed within two years of the date of coming into force of the Agreement, rights arising from the Agreement shall be acquired from that date, notwithstanding the provisions of the statutes of both Parties relative to the forfeiture of rights, unless there are more favourable provisions for beneficiaries in the applicable statutes ;

(g) if a request referred to in subparagraph *c*, *d* or *e* 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 statutes.

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

ARTICLE 31

COMING INTO FORCE AND TERM

(1) The Parties shall notify one another in writing when their respective internal procedures required for the coming into force of the Agreement have been completed. The Agreement comes into force on the first day of the month following the month in which the last notifications were sent to the other Party.

(2) The Agreement is entered into for an indefinite term. It expires on the 31st day of December which follows by at least 12 months the date on which one Party receives a notification in writing from the other Party expressing the desire to terminate the Agreement.

(3) If the Agreement is terminated, all rights acquired under the provisions of the Agreement as well as any rights in the process of being acquired shall be maintained.

Done at Québec on 19 February 2002, in two copies, each in the French and Czech languages, both texts having equal validity.

For the Gouvernement
du Québec

For the Government of
the Czech Republic

LOUISE BEAUDOIN,

VLADIMÍR KOTZY,

Minister of International
Relations

*Ambassador Extraordinary and
Plenipotentiary of the Czech*

Republic to Canada

O.C. 977-2003, Sch. I.

SCHEDULE II

ADMINISTRATIVE ARRANGEMENT FOR THE IMPLEMENTATION OF THE AGREEMENT ON SOCIAL SECURITY BETWEEN THE GOUVERNEMENT DU QUÉBEC AND THE GOVERNMENT OF THE CZECH REPUBLIC

THE COMPETENT AUTHORITY OF QUÉBEC

AND

THE COMPETENT AUTHORITY OF THE CZECH REPUBLIC

CONSIDERING Article 19 of the Agreement on Social Security between the Gouvernement du Québec and the Government of the Czech Republic ;