



Social Security (International Agreements) Act 1999 Amendment Regulations 2005 (No. 2)¹

Select Legislative Instrument 2005 No. 191

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Social Security (International Agreements) Act 1999*.

Dated 18 August 2005

P. M. JEFFERY
Governor-General

By His Excellency's Command

KAY PATTERSON
Minister for Family and Community Services

1 Name of Regulations

These Regulations are the *Social Security (International Agreements) Act 1999 Amendment Regulations 2005 (No. 2)*.

2 Commencement

These Regulations commence on 1 January 2006.

3 Amendment of *Social Security (International Agreements) Act 1999*

Schedule 1 amends the *Social Security (International Agreements) Act 1999*.

Schedule 1 Amendment
(regulation 3)

[1] **Act, Schedule 8**
substitute

Schedule 8 — Ireland

Note: See section 5.

**Agreement on Social Security
Between
the Government of Australia
and
the Government of Ireland**

The Government of Australia and the Government of Ireland (hereinafter “the Parties”),

Wishing to strengthen the existing friendly relations between the two countries,

Desiring to review the Agreement between Australia and Ireland on Social Security signed on 8 April 1991, and

Acknowledging the need to coordinate the operation of their respective social security systems and to eliminate double coverage;

Have agreed as follows:

PART I — GENERAL PROVISIONS

ARTICLE 1

Definitions

1. In this Agreement, unless the context otherwise requires:
 - (a) “benefit” means, in relation to a Party, a benefit, pension or allowance for which provision is made in the legislation of that Party, and includes any additional amount, increase or supplement that is payable in addition to that benefit, pension or allowance to or in respect of a person who qualifies for that additional amount, increase or supplement under the legislation of that Party, but for Australia does not include any benefit, payment or entitlement under the law concerning the superannuation guarantee;
 - (b) “Competent Authority” means, in relation to Australia:

the Secretary of the Department responsible for the application of the legislation in subparagraph 1 (a) (i) of Article 2 of this

Agreement except in relation to the application of Part II of the Agreement (including the application of other Parts of the Agreement as they affect the application of that Part) where it means the Commissioner of Taxation or an authorised representative of the Commissioner;

and in relation to Ireland:

the Minister for Social and Family Affairs;

(c) “Competent Institution” means, in relation to Australia:

the institution or agency which has the task of implementing the applicable Australian legislation;

and in relation to Ireland:

the Department of Social and Family Affairs;

(d) “legislation” means, in relation to Australia:

the laws specified in subparagraph 1 (a) (i) of Article 2 except in relation to the application of Part II of the Agreement (including the application of other Parts of the Agreement as they affect the application of that Part) where it means the law specified in subparagraph 1 (a) (ii) of Article 2;

and in relation to Ireland:

the laws specified in subparagraph 1 (b) of Article 2;

(e) “period of Australian working life residence”, in relation to a person, means a period defined as such in the legislation of Australia, but does not include any period deemed pursuant to Article 11 to be a period in which that person was an Australian resident;

- (f) “Irish period of insurance” means, a period in respect of which qualifying contributions have been paid or a period in respect of which contributions have been treated as paid or credited and which has been or can be used to acquire the right to benefit under the legislation of Ireland, but does not include any period deemed pursuant to Article 13 to be an Irish period of insurance;
- (g) “previous agreement” means, the Agreement between Australia and Ireland on social security signed on 8 April 1991;
- (h) “territory” means, in relation to Australia:
- Australia as defined in the legislation of Australia;
- and in relation to Ireland:
- that part of the island of Ireland which is at present under the jurisdiction of the Government of Ireland;
- (i) “widowed person” means, in relation to Australia, a person who stops being a partnered person because of the death of the person’s partner, but does not include a person who has a new partner.

2. In the application by a Party of this Agreement, any term not defined shall, unless the context otherwise requires, have the meaning which it has under the legislation of that Party.

ARTICLE 2

Legislative Scope

1. Subject to paragraph 2, this Agreement shall apply to the following laws, as amended at the date of signature of this

Agreement, and to any laws that subsequently amend, supplement, consolidate or replace them:

- (a) in relation to Australia:
 - (i) the Acts referred to as “the social security law” in the *Social Security Act 1991*, and any regulations made under any such Act, in so far as those Acts or regulations provide for, apply to or affect the following pensions:
 - A) age pension;
 - B) disability support pension for the severely disabled;
 - C) pensions payable to widowed persons; and
 - (ii) the law concerning the superannuation guarantee which at the time of signature of this Agreement is contained in the *Superannuation Guarantee (Administration) Act 1992*, *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee (Administration) Regulations*, only in relation to the application of Part II of this Agreement;
- (b) in relation to Ireland: the Acts referred to as the “Social Welfare Acts” and any regulations made thereunder to the extent that they provide for and apply to:
 - (i) old age (contributory) pension;
 - (ii) retirement pension;
 - (iii) widow’s and widower’s (contributory) pension;
 - (iv) invalidity pension;

- (v) orphan's (contributory) allowance;
- (vi) bereavement grant; and
- (vii) the liability for the payment of employment and self-employment contributions.

2. Notwithstanding the provisions of paragraph 1:

in relation to Australia, the legislation of Australia shall not include treaties or other international agreements concluded between it and a third State;

and in relation to Ireland, the legislation of Ireland shall not include the Regulations on Social Security of the Institutions of the European Communities or any treaties or other international agreements on social security that may be concluded between Ireland and a third State or legislation promulgated for their specific implementation.

3. This Agreement shall apply to laws which extend the legislation of either Party to new categories of beneficiaries only if the two Parties so agree.

ARTICLE 3

Personal Scope

This Agreement shall apply to any person who:

- (a) is or has been an Australian resident; or
- (b) is or has been subject to the legislation of Ireland,

and, where applicable, to other persons in regard to the rights they derive from the person described above.

ARTICLE 4

Equality of Treatment

Subject to this Agreement, all persons to whom this Agreement applies shall be treated equally by a Party in regard to rights and obligations regarding eligibility for and payments of benefits which arise whether directly under the legislation of that Party or by virtue of this Agreement.

PART II — PROVISIONS FOR AVOIDING DOUBLE COVERAGE

ARTICLE 5

Purpose of Part

The purpose of this Part is to ensure that employers and employees who are subject to the legislation of Ireland or Australia do not have a double liability under the legislation of Ireland and Australia, in respect of the same work of an employee.

ARTICLE 6

Application of Part

This Part only applies if an employee and/or the employer of the employee would, apart from this Part, be subject to the legislation of both Parties in respect of work of the employee or remuneration paid for the work.

ARTICLE 7

Diplomatic and Consular Relations

This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961, or the Vienna Convention on Consular Relations of 24 April 1963.

ARTICLE 8

Application of Legislation

1. Unless otherwise provided in paragraphs 2, 3, 4 or 5 if an employee works in the territory of one Party, the employer of the employee and the employee shall in respect of the work and the remuneration paid for the work be subject only to the legislation of that Party.
2. If an employee:
 - (a) is covered by the legislation of one Party; and
 - (b) was sent, whether before, on or after the entry into force of this Agreement, by an employer who is subject to the legislation of that Party to work in the territory of the other Party; and
 - (c) is working in the territory of the other Party in the employment of the employer or a related entity of that employer; and
 - (d) is not working permanently in the territory of the other Party;

the employer and employee shall, for a period not exceeding 4 years from the time the employee is sent to work in the territory of the other Party, be subject only to the legislation of the Party from which the employee was sent in respect of the work and the remuneration paid for the work. An entity is a related entity of an employer if the entity and the employer are members of the same wholly or majority owned group.

3. If the employer for the purposes of paragraph 2 of this Article is the Government of a Party, then the time limit specified in paragraph 2 shall not apply. For the purposes of this paragraph, Government includes:

in relation to Australia, a political subdivision or local authority of Australia;

in relation to Ireland, a local authority of Ireland.

4. If an employee is working in the employment of an employer on a ship in international traffic the employer of the employee and employee shall in respect of the employment and the remuneration paid for that employment be subject only to the legislation of the Party of which the employee is resident.
5. A person who is a member of the travelling or flying personnel of a transport undertaking who is employed in the territory of both Parties shall be subject to the legislation of that Party in which the undertaking has its registered office, unless
- (a) the employee is permanently employed by a branch office or permanent representation of the employer in the territory of the other Party, or
 - (b) the employee is permanently resident in and is mainly employed in the territory of the other Party,

in which case he or she shall be subject to the legislation of the latter Party. In any case, for the purposes of this paragraph, an Australian resident employee working for an Australian resident employer shall be subject to the legislation of Australia.

ARTICLE 9

Exception Agreements

1. The Competent Authorities may, for the purposes of this Part, by agreement in writing:
 - (a) extend the period of 4 years referred to in paragraph 2 of Article 8 for any employee; or
 - (b) provide that an employee is taken to work in the territory of a particular Party, or to work on a ship or aircraft in international traffic, under the legislation of a particular Party and is covered only by the legislation of that Party.
2. Any agreement made under paragraph 1 may apply to:
 - (a) a class of employees; and/or
 - (b) particular work or a particular type of work (including work that has not occurred at the time the agreement is made).

PART III — PROVISIONS RELATING TO AUSTRALIAN BENEFITS

ARTICLE 10

Residence or Presence in the Territory of Ireland or a Third State

Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for a benefit except that he or she is not an Australian resident and in Australia on the date on which he or she lodges a claim for that benefit but he or she:

- (a) is an Australian resident or residing in the territory of Ireland or a third State with which Australia has concluded an agreement on social security that includes a provision for co-operation in the assessment and determination of claims for benefits; and
- (b) is in Australia, or the territory of Ireland or that third State,

that person, so long as he or she has been an Australian resident at some time, shall be deemed, for the purposes of lodging that claim, to be an Australian resident and in Australia on that date.

ARTICLE 11

Totalisation for Australia

1. Where a person to whom this Agreement applies has claimed an Australian benefit under this Agreement and has accumulated:
 - (a) a period as an Australian resident that is less than the period required to qualify that person, on that ground, under the legislation of Australia for a benefit; and

- (b) a period of Australian working life residence equal to or greater than the period identified in paragraph 4 ; and
- (c) an Irish period of insurance,

then, that Irish period of insurance shall be deemed, only for the purposes of meeting any minimum qualifying periods for that benefit set out in the legislation of Australia, to be a period in which that person was an Australian resident provided that Ireland considers that period to be an Irish period of insurance at the time of totalisation.

2. For the purposes of paragraph 1, where a person:

- (a) has been an Australian resident for a continuous period which is less than the minimum continuous period required by the legislation of Australia for entitlement of that person to a benefit; and
- (b) has accumulated an Irish period of insurance in two or more separate periods that equals or exceeds in total the minimum period referred to in subparagraph (a),

the total of the Irish periods of insurance shall be deemed to be one continuous period.

- 3. For all the purposes of this Article, where a period by a person as an Australian resident and an Irish period of insurance coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.
- 4. The period of Australian working life residence to be taken into account for the purposes of subparagraph 1 (b) shall be as follows:
 - (a) for the purposes of an Australian benefit claimed by a person residing outside Australia, the minimum period

required shall be 12 months, of which at least 6 months must be continuous; and

- (b) for the purposes of an Australian benefit claimed by an Australian resident, no minimum period shall be required.
5. For the purpose of a claim by a person for a pension payable to a widowed person, that person shall be deemed to have accumulated an Irish period of insurance for any period for which his or her partner accumulated an Irish period of insurance but any period during which the person and his or her partner both accumulated those periods of insurance shall be taken into account once only.
6. For the purpose of converting Irish periods of insurance into periods as an Australian resident in accordance with this Article, one week of an Irish period of insurance shall be deemed to be a period of a week as an Australian resident.

ARTICLE 12

Calculation of Australian Benefits

1. Subject to paragraph 2, where an Australian benefit is payable whether by virtue of this Agreement or otherwise to a person who is outside the territory of Australia, the rate of that benefit shall be determined according to the legislation of Australia, but when assessing the income of that person for the purposes of calculating the rate of the Australian benefit only a proportion of any Irish benefit which is received by that person shall be regarded as income. That proportion shall be calculated by multiplying the number of whole months accumulated by that person in a period of residence in Australia (not exceeding 300) by the amount of that Irish benefit and dividing that product by 300.

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2. A person referred to in paragraph 1 shall only be entitled to receive the concessional assessment of income described in that paragraph for any period during which the rate of that person's Australian benefit is proportionalised under the legislation of Australia.

 3. Where an Australian benefit is payable, whether by virtue of this Agreement or otherwise to a person who is resident in the territory of Ireland, Australia shall disregard, when assessing the income of that person, any of the Irish payments listed hereunder:
 - (i) back to education allowance;
 - (ii) back to work allowance;
 - (iii) blind pension;
 - (iv) blind welfare allowance;
 - (v) carer's allowance;
 - (vi) child benefit;
 - (vii) disability allowance;
 - (viii) domiciliary care allowance;
 - (ix) family income supplement;
 - (x) farm assist;
 - (xi) fuel allowance
 - (xii) infectious diseases maintenance allowance;
 - (xiii) mobility allowance;
 - (xiv) old age (non-contributory) pension;

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- (xv) one-parent family payment;
 - (xvi) orphan's (non-contributory) pension;
 - (xvii) pre-retirement allowance;
 - (xviii) rent allowance;
 - (xix) supplementary welfare allowance;
 - (xx) unemployment assistance;
 - (xxi) widow's and widower's (non-contributory) pension;
 - (xxii) any allowance, dependant's allowance, disability pension or wound pension under the *Army Pensions Act 1923 to 1980*;
 - (xxiii) any allowance under Article 14 of the *Child Care (Placement of Children in Foster Care) Regulations 1995* or Article 15 of the *Child Care (Placement of Children with Relatives) Regulations 1995*;

and any other payments of a similar nature proposed by the Competent Institutions specified in Article 1 and jointly approved by the Competent Authorities and listed in the Administrative Arrangement.

- 4. The provisions in paragraphs 1 and 3 shall continue to apply for 26 weeks where a person comes temporarily to Australia.
- 5. Subject to the provisions of paragraph 6, where an Australian benefit is payable only by virtue of this Agreement to a person who is in Australia, the rate of that benefit shall be determined by:
 - (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation any Irish benefits received by that person;

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- (b) deducting the amount of any Irish benefits received by that person from the maximum rate of that Australian benefit; and
 - (c) applying to the remaining benefit obtained under subparagraph (b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under subparagraph (a).
6. Where a married person is, or both that person and his or her partner are, in receipt of an Irish benefit or benefits, each of them shall be deemed, for the purpose of paragraph 5 and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or total of both of those benefits, as the case may be.
- 7 The provisions in paragraph 5 shall continue to apply for 26 weeks where a person departs temporarily from Australia.

PART IV — PROVISIONS RELATING TO IRISH BENEFITS

ARTICLE 13

Totalisation for Ireland

- 1. Notwithstanding the provisions of paragraphs 2 and 3 of this Article where a person is entitled to an Irish benefit by virtue of his or her Irish periods of insurance alone, that benefit shall be payable and the provisions of paragraph 2 of this Article shall not apply.
- 2. Subject to paragraph 5, if a person is not entitled to an Irish benefit on the basis of his or her Irish periods of insurance alone, then such periods shall be totalised with periods of residence in Australia, in accordance with the provisions of paragraph 3. The

person's entitlement to benefit shall be determined on the basis of the totalised periods in accordance with the statutory contribution conditions provided for under the legislation of Ireland and the amount of Irish benefit payable shall be calculated in accordance with the provisions of Article 14.

3. For the purposes of determining entitlement to an Irish benefit in accordance with the provisions of paragraph 2, each calendar week or part thereof in which a person has a period of Australian working life residence shall be deemed to be a contribution week in respect of which the person has a qualifying contribution under the legislation of Ireland.
4. Where a period of Australian working life residence and an Irish period of insurance coincide, the period of coincidence shall be taken into account once only by Ireland as an Irish period of insurance.
5. For the purpose of determining entitlement to benefits other than bereavement grant or orphan's (contributory) allowance, if the total duration of the Irish periods of insurance completed by the person since his or her entry into insurance under the legislation of Ireland is less than one year and if, taking into account only those periods, no right to a benefit exists under that legislation, the Competent Authority of Ireland will not be required to award benefits in respect of those periods by virtue of this Agreement.
6. For the purpose of determining entitlement to a bereavement grant or orphan's (contributory) allowance:
 - (a) periods of Australian working life residence shall be taken into account as if they were Irish periods of insurance completed under the legislation of Ireland;
 - (b) periods of Australian working life residence shall be converted into Irish periods of insurance in accordance with the provisions of paragraph 3.

7. For the purposes of determining entitlement of a person to an invalidity pension, any period of continuous incapacity for work which occurs during a period of Australian working life residence by that person shall be deemed to be a period of continuous incapacity in the territory of Ireland.

ARTICLE 14

Calculation of Irish Benefits

1. Where a person is entitled to an Irish benefit by virtue of the totalisation arrangements prescribed in Article 13, the Competent Institution of Ireland shall calculate the amount of benefit, other than bereavement grant and orphan's (contributory) allowance, as follows:
 - (a) the amount of the theoretical benefit exclusive of any additional amount, or supplement or any increase other than an increase for a qualified adult which would be payable if all the periods of Australian working life residence and all the Irish periods of insurance had been completed under Irish legislation;
 - (b) the proportion of such theoretical benefit which bears the same relation to the whole as the total of Irish periods of insurance completed under the legislation of Ireland bears to the total of all periods of Australian working life residence and Irish periods of insurance.

The proportionate amount thus calculated plus any additional amount, supplement or increase other than an increase for a qualified adult shall be the rate of benefit actually payable by the Competent Institution of Ireland.

2. Where a period of working life residence in Australia is not counted by the Competent Authority of Australia under the provisions of subparagraph (a) of paragraph 4 of Article 11, the

provision of subparagraph (b) of paragraph 1 of this Article will not apply and entitlement to Irish benefits will be calculated on the basis of the totalised period.

3. In the case of bereavement grant and orphan's (contributory) allowance the amount of benefit payable shall be calculated in accordance with the relevant contribution conditions under the legislation of Ireland taking account of the provisions of Article 13 (6).

PART V — MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

ARTICLE 15

Lodgement of Documents

1. A claim, notice or appeal concerning a benefit, whether payable by a Party by virtue of this Agreement or otherwise, may be lodged in the territory of either of the Parties in accordance with administrative arrangements made pursuant to Article 19 at any time after the Agreement enters into force.
2. The date on which a claim, notice or appeal referred to in paragraph 1 is lodged with the Competent Institution of the other Party shall be treated, for the purposes of assessing entitlement to benefit, as the date of lodgement of that document with the Competent Institution of the first Party. The Competent Institution to which a claim, notice or appeal is lodged shall refer it without delay to the Competent Institution of the other Party.
3. A claim for a benefit from one Party shall be considered as a claim for the corresponding benefit from the other Party if the claimant:
 - (i) so requests; or

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- (ii) provides information at the time of the application indicating that the person had a period of residence or contributions under the social security laws of the other Party.
4. In relation to Australia, the reference in this Article to an appeal document is a reference to a document concerning an appeal that may be made to an administrative body established by, or for the purposes of, the social security laws of Australia.

ARTICLE 16

Determination of Claims

1. In determining the eligibility or entitlement of a person to a benefit by virtue of this Agreement:
- (a) a period as an Australian resident and an Irish period of insurance; and
 - (b) any event or fact which is relevant to that eligibility or entitlement,
- shall, subject to this Agreement, and to the relevant provisions of the social security laws of each Party, be taken into account in so far as those periods or those events or facts are applicable in regard to that person and whether they were accumulated or occurred before or after the date on which this Agreement enters into force.
2. The commencement date for payment of a benefit payable by virtue of this Agreement shall be determined in accordance with the legislation of the Party concerned but shall never be earlier than the date on which this Agreement enters into force.

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3. In the case of contingencies which occurred before the commencement of this Agreement the amount of a benefit under the legislation of Ireland due only by virtue of this Agreement shall be determined from the date of entry into force of the Agreement at the request of the beneficiary.
4. Where:
- (a) a benefit is paid or payable by a Party to a person in respect of a past period;
 - (b) for all or part of that period, the other Party has paid to that person a benefit under its legislation; and
 - (c) the amount of the benefit paid by that other Party would have been reduced had the benefit paid or payable by the first Party been paid during that period;
- then
- (d) the amount that would not have been paid by the other Party had the benefit described in subparagraph (a) been paid on a periodical basis throughout that past period, shall be a debt due by that person to the other Party; and
 - (e) the other Party may determine that the amount, or any part, of that debt may be deducted from future payments of a benefit payable by that Party to that person.
5. Where the first Party has not yet paid the benefit described in subparagraph 4 (a) to the person:
- (a) that Party shall, at the request of the other Party, pay the amount of the benefit necessary to meet the debt described in subparagraph 4 (d) to the other Party and shall pay any excess to the person; and
 - (b) any shortfall may be recovered by the other Party under subparagraph 4 (e).

6. The Competent Institution receiving a request under paragraph 5 shall transfer the amount of the debt to the Competent Institution making the request.
7. A reference in paragraphs 4 and 5 to a benefit means, in relation to Australia, a pension, benefit or allowance that is payable under the social security laws of Australia and, in relation to Ireland, any pension, benefit or allowance payable under the laws of Ireland.

ARTICLE 17

Payment of Benefits

1. Benefits payable by virtue of this Agreement are also payable in the territory of the other Party.
2. Where the legislation of a Party provides that a benefit is payable outside the territory of that Party, then that benefit, when payable by virtue of this Agreement, is also payable outside the territories of both Parties.
3. The payment outside Australia of an Australian benefit that is payable by virtue of this Agreement shall not be restricted by those provisions of the legislation of Australia which prohibit the payment of a benefit to a former Australian resident who returns to Australia, becoming again an Australian resident, and lodges a claim for an Australian benefit and leaves Australia within a specified period of time.

ARTICLE 18

Exchange of Information and Mutual Assistance

1. The Competent Authorities and Competent Institutions

responsible for the application of this Agreement:

- (a) shall communicate to each other any information necessary for the application of this Agreement;
 - (b) shall lend their good offices and furnish assistance to one another with regard to the determination or payment of any benefit under this Agreement or the legislation to which this Agreement applies as if the matter involved the application of their own legislation;
 - (c) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation insofar as these changes affect the application of this Agreement; and
 - (d) at the request of one to the other, assist each other in relation to the implementation of agreements on social security entered into by either of the Parties with third States, to the extent and in the circumstances specified in administrative arrangements made in accordance with Article 19.
2. The assistance referred to in paragraph 1 shall be provided free of charge, subject to any administrative arrangements made pursuant to Article 19.
3. Unless disclosure is required under the laws of a Party, any information about an individual which is transmitted in accordance with this Agreement to a Competent Authority or a Competent Institution of that Party by a Competent Authority or a Competent Institution of the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.
4. In no case shall the provisions of paragraphs 1 and 3 be construed so as to impose on the Competent Authority or Competent Institution of a Party the obligation:

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- (a) to carry out administrative measures at variance with the laws or the administrative practice of that Party or the other Party; or
 - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that Party or the other Party.
5. In the application of this Agreement, the Competent Authority and the Competent Institution of a Party may communicate with the other in any official language of that Party.

ARTICLE 19

Administrative Arrangements

The Competent Authorities of the Parties shall make whatever administrative arrangements are necessary in order to implement this Agreement.

ARTICLE 20

Resolution of Difficulties

- 1. The Competent Authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
- 2. The Parties shall consult promptly at the request of either concerning matters which have not been resolved by the Competent Authorities in accordance with paragraph 1.

ARTICLE 21

Review of Agreement

Where a Party requests the other to meet to review this Agreement, the Parties shall meet for that purpose as soon as possible after that request was made and, unless the Parties otherwise agree, their meeting shall be held in the territory of the Party to which the request was made.

PART VI — TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 22

Transitional provisions

1. Subject to this Agreement, when this Agreement comes into force, the previous agreement shall terminate and persons who were receiving benefits by virtue of that agreement shall receive those benefits by virtue of this Agreement.
2. Where, on the date on which this Agreement enters into force, a person:
 - (a) is in receipt of a benefit by virtue of the previous Agreement; or
 - (b) is qualified to receive a benefit referred to in subparagraph (a) and, where a claim for that benefit is required, has claimed that benefit,no provision of this Agreement shall affect that person's qualification to receive that benefit.

ARTICLE 23

Entry Into Force

1. This Agreement is subject to ratification. The instruments of ratification shall be exchanged as soon as possible, after all constitutional and legislative requirements, including administrative arrangements referred to in Article 19 of this Agreement have been fulfilled.
2. This Agreement shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

ARTICLE 24

Termination

1. Subject to paragraph 2, this Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other a note through the diplomatic channel indicating the intention of the other Party to terminate this Agreement.
2. In the event that this Agreement is terminated in accordance with paragraph 1, the Agreement shall continue to have effect in relation to all persons who:
 - (a) at the date of termination, are in receipt of benefits; or
 - (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits,

by virtue of this Agreement, or

- (c) immediately before the date of termination, are subject only to the legislation of one Party as mentioned in and by virtue of paragraph 1 or 2 of Article 8 or Article 9, but only for so long as the Agreement would have continued to apply to the employee had the Agreement not been terminated.

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

DONE in 2 originals at Dublin this ninth day of June two thousand and five.

FOR THE GOVERNMENT OF
AUSTRALIA

FOR THE
GOVERNMENT OF
IRELAND

Dr John Herron

Seamus Brennan

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.