



Social Security (International Agreements) Act 1999 Amendment Regulations 2011 (No. 3)¹

Select Legislative Instrument 2011 No. 258

I, QUENTIN BRYCE, 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* and the *Legislative Instruments Act 2003*.

Dated 7 December 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

JENNY MACKLIN
Minister for Families, Housing, Community Services and
Indigenous Affairs

1 Name of Regulations

These Regulations are the *Social Security (International Agreements) Act 1999 Amendment Regulations 2011 (No. 3)*.

2 Commencement

- (1) These Regulations commence as follows:
 - (a) on the day after they are registered — regulations 1 to 3;
 - (b) on a day to be fixed by legislative instrument made by the Minister — Schedule 1.
- (2) A legislative instrument made under paragraph (1) (b) is:
 - (a) prescribed for the table in subsection 44 (2) of the *Legislative Instruments Act 2003* (so that it is not subject to disallowance); and
 - (b) prescribed for the table in subsection 54 (2) of the *Legislative Instruments Act 2003* (so that it is not subject to sunset).

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] After Schedule 28

insert

Schedule 29 — Republic of Hungary

Note: See sections 5 and 8.

**AGREEMENT BETWEEN AUSTRALIA AND THE REPUBLIC
OF HUNGARY ON SOCIAL SECURITY**

Australia and the Republic of Hungary, hereinafter “the Contracting Parties”,

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

and

Being desirous of regulating the relationship between their two countries with respect to social security,

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Definition of terms

1. In this Agreement:

- (a) **“benefit”** means a pension or allowance that is payable under the applicable legislation of a Contracting Party, including any increase or supplement that is payable 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 Government Department responsible for the social security law specified in Article 2, except in Part II of the Agreement, and other Parts of the Agreement as they affect that Part, where it means the Commissioner of Taxation or an authorised representative of the Commissioner; and,
 - in relation to the Republic of Hungary, the ministers, ministries or other relevant authorities responsible for

systems regulated by the legislation referred to in Article 2.1.(b);

- (c) **“Competent Institution”** means, in relation to Australia, the institution or agency which has the task of implementing the applicable legislation; and, in relation to the Republic of Hungary, the responsible institution where the person is or has been insured;
- (d) **“creditable period”** means, in relation to Australia, a period of residence used to qualify for a benefit under the social security law of Australia; and, in relation to the Republic of Hungary, a period of contributions under legislation of the Republic of Hungary, or a period deemed equivalent to, or considered as, a period of contributions under that legislation;
- (e) **“eligible person”** means a person who has acquired eligibility for benefits under the social security legislation specified in Article 2 of this Agreement;
- (f) **“legislation”** means the laws and regulations specified in Article 2 of this Agreement;
- (g) **“period of Australian working life residence”** means, in relation to a person, a period defined as such in the legislation of Australia, but does not include any period deemed pursuant to Article 13 to be a period in which that person was an Australian resident;
- (h) **“residence”** means a place where the person concerned has permanent residence in accordance with the applicable laws of the Contracting Party;

2. Any term not defined in this Article shall have the meaning assigned to it in the applicable legislation of the Contracting Parties.

Article 2

Legislative Scope

This Agreement shall apply to the following legislation:

- (a) in relation to Australia:
 - (i) the Acts forming the social security law in so far as the law provides for, applies to or affects age pension;
 - (ii) in relation to Part II of the Agreement and other Parts of the Agreement as they affect that Part, the law concerning the superannuation guarantee (which at the time of signature of this Agreement is contained in the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee (Administration) Regulations*);
- (b) in relation to the Republic of Hungary, to the laws and regulations concerning:
 - (i) the insurance obligation and the payment of contribution covering social insurance benefits and benefits paid in case of unemployment; and
 - (ii) the social insurance pension benefits.

2. Subject to Article 2.4, this Agreement shall also apply to laws and regulations which amend, supplement, consolidate or supersede the legislation specified in paragraph 1.

3. Unless otherwise provided in this Agreement, the legislation referred to in this Article shall not include any treaty or any other agreement on social security entered into by either Contracting Party with a third party.

4. This Agreement shall also apply to laws and regulations of a Contracting Party which define new schemes or branches of social security, subject to written notification thereof by the Competent Authority of a Contracting Party to the Competent Authority of the other Contracting Party. Unless the Competent Authority of the other Contracting Party objects within 3 months of the date of such

notification, the material scope of this Agreement will include the content of the notification from a date mutually agreed by the Competent Authorities of the Contracting Parties.

Article 3

Personal Scope

This Agreement shall apply to:

- (a) any person who is or has been covered by the legislation of one or both of the Contracting Parties;
- (b) any person who is or has been an Australian resident; and
- (c) other persons to the extent they derive rights under the applicable legislation from the persons described in sub-paragraph (a).

Article 4

Equality of Treatment

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

Article 5

Export of Benefits

1. Unless otherwise provided in this Agreement, benefits payable under the legislation of a Contracting Party to any person described in Article 3, including benefits acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason only of the fact that the person resides in the territory of the other Contracting Party, and these benefits shall be paid when that person is a resident of, or in, the territory of either Contracting Party.
2. In relation to Australia, for the purposes of Article 5.1, any increase or supplement that is payable under this Agreement, shall be

payable to a person outside Australia only for the period specified in the *Social Security Act 1991*. The reference to the *Social Security Act 1991* includes any laws that subsequently amend, supplement or replace that Act.

PART II

PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 6

General provisions

1. The purpose of this Part is to ensure that employers and employees who are subject to the legislation of Australia or the Republic of Hungary do not have a double liability under the legislation of Australia and the Republic of Hungary, in respect of the same work of an employee.
2. This Part only applies if an employee and/or their employer would, apart from this Part, be subject to the legislation of both Contracting Parties in respect of work of the employee or remuneration paid for the work.
3. Subject to this Part of the Agreement, if an employee works in the territory of a Contracting Party, the employee and their employer shall, in respect of that work, be subject only to the legislation of that Contracting Party.

Article 7

Secondment

1. If a person who is subject to the legislation of a Contracting Party and who is employed by an employer registered under the laws of that Contracting Party is sent, in the course of that employment, to work for that employer or a related entity of that employer in the territory of the other Contracting Party, that person and their employer shall, in respect of that work, be subject only to the legislation of the first Contracting Party as though that work was performed in its territory.

2. For the purposes of paragraph 1, a related entity, registered in the territory of the other Contracting Party, is:

- (a) the subsidiary or the majority owner of the employer; or
- (b) an associated enterprise of the employer, where both are majority owned by the same enterprise.

3. Paragraph 1 shall not apply to a secondment of more than 48 months without the prior consent of the Competent Authorities of both Contracting Parties or their delegated institutions or agencies.

Article 8

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 9

Government employment

A person engaged in Government employment for a Contracting Party who is sent to work in the territory of the other Contracting Party shall, in respect of that employment, be subject only to the legislation of the first Contracting Party. For Australia, “Government” includes a political subdivision or local authority of Australia.

Article 10

Exception agreements

The Competent Authorities of the Contracting Parties or their delegated institutions or agencies may, upon the request of the employer, or in regards to the Republic of Hungary upon the request of the employer and the employee, provide by mutual consent for further exceptions to the general provisions on applicable legislation of this Agreement, provided the person concerned continues, or shall come, to be covered by the legislation of either Contracting Party.

Article 11

Certificates

Where the legislation of one Contracting Party is applicable in accordance with any of the provisions of this Part, the Competent Authorities of the Contracting Parties or their delegated institutions or agencies shall issue, upon the request of the employer, a certificate stating that the employee is subject to the legislation of that Contracting Party and indicating the duration for which the certificate shall be valid. The employee concerned as well as the employer and the delegated institutions or agencies of the other Contracting Party shall be entitled to receive a copy upon request.

PART III

PROVISIONS RELATING TO AUSTRALIAN BENEFITS

Article 12

Residence or Presence in the Republic of Hungary

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

- (a) is an Australian resident or a resident of the Republic of Hungary; and
- (b) is in Australia, or the territory of the Republic of Hungary,

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

Article 13

Totalization in relation to Australian benefits

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 that benefit; and
- (b) a period of Australian working life residence equal to or greater than the period specified in Article 13.4 for that person; and
- (c) a creditable period under the legislation of the Republic of Hungary;

then that creditable period completed under the legislation of the Republic of Hungary shall be deemed to be a period in which that person was an Australian resident for the purposes of meeting any minimum qualifying periods for that benefit.

2. For the purposes of Article 13.1, 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 creditable periods under the legislation of the Republic of Hungary that equal or exceed in total the minimum period referred to in Article 13.2(a);

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

3. For the purposes of this Article, where a period by a person as an Australian resident and a creditable period completed under the legislation of the Republic of Hungary coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.

4. The minimum period of Australian working life residence to be taken into account for the purposes of Article 13.1 shall be:

- (a) for the purposes of an Australian benefit that is payable to a person who is not an Australian resident, the minimum period required shall be 12 months, of which at least six months must be continuous; and

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- (b) for the purposes of an Australian benefit that is payable to an Australian resident, there is no minimum period.

5. For the purpose of this Article, a creditable period completed under the legislation of the Republic of Hungary shall be deemed as a period as an Australian resident only if that creditable period is certified by the Competent Institution of the Republic of Hungary.

Article 14

Calculation of Australian Benefits

1. Subject to Article 14.2, where an Australian benefit is payable only by virtue of this Agreement to a person outside Australia, the rate of that benefit shall be determined according to the legislation of Australia, and proportionalised where applicable, but on the basis that the additional child amount is nil.

2. Where a person comes temporarily to Australia, Article 14.1 shall continue to apply for 26 weeks from the date of their arrival in Australia.

3. Subject to Article 14.4, 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 benefit under the legislation of the Republic of Hungary which that person or the partner of that person is entitled to receive if applicable; and
- (b) deducting the amount of the benefit under the legislation of the Republic of Hungary which that person is entitled to receive from the maximum rate of that Australian benefit; and
- (c) applying to the remaining benefit obtained under Article 14.3(b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under Article 14.3(a).

4. Where a person departs temporarily from Australia, Article 14.3 shall continue to apply for 26 weeks from the date of their departure from Australia.

5. Where a member of a couple is, or both that person and his or her partner are, entitled to a benefit or benefits under the legislation of the Republic of Hungary each of them shall be deemed, for the purposes of this Article and of the legislation of Australia, to be in receipt of one half of either the amount of that benefit or the total of both of those benefits, as the case may be.

PART IV

PROVISIONS RELATING TO BENEFITS UNDER THE LEGISLATION OF THE REPUBLIC OF HUNGARY

Article 15

Residence in Australia may qualify a person for Hungarian benefits (Totalization)

1. Where the legislation of the Republic of Hungary makes the acquisition, maintenance or recovery of eligibility for a benefit conditional upon the accumulation of creditable periods, if the criteria of eligibility for a benefit are not met solely under the legislation of the Republic of Hungary, the Competent Institution of the Republic of Hungary shall take into account the creditable periods completed under the legislation of Australia as if these periods were completed under its own legislation, provided that such creditable periods do not overlap.

2. Where the legislation of the Republic of Hungary makes the granting of certain benefits conditional upon the creditable periods completed only in an occupation which is subject to a special scheme, or the eligibility to these benefits is subject to condition of creditable periods completed in specific occupations or employment, periods completed under the legislation of Australia shall only be taken into account for the granting of these benefits if these were completed under a corresponding scheme or, for lack of this scheme, in similar occupation or employment. If the totalization of creditable periods does not establish eligibility to a benefit within the specific scheme of benefits, these creditable periods shall be totalized within the general scheme of insurance.

3. Where eligibility to a full benefit is acquired under the legislation of the Republic of Hungary without the application of paragraphs 1 and 2

of this Article, the benefit shall be defined by the Competent Institution of the Republic of Hungary only on the basis of creditable periods completed under the legislation which it applies.

4. Once the Hungarian pension has been awarded the accumulation of additional creditable periods under the legislation of Australia shall not result in the revision of the Hungarian pension.

Article 16

Calculating the amount of Hungarian partial benefits

Where a person is entitled to a full benefit under the legislation of the Republic of Hungary only on the basis of totalising creditable periods, the Competent Institution of the Republic of Hungary shall calculate the amount of pension to be paid, as if all creditable periods acquired under the legislation of both Contracting Parties were taken into account for the establishment of the pension. The Competent Institution of the Republic of Hungary shall pay only the proportion of the pension calculated by this calculating method that corresponds to the ratio of creditable periods completed under the legislation of the Republic of Hungary to the total creditable periods under the legislation of both Contracting Parties.

Article 17

The basis of calculation of benefits

Where under the legislation of the Republic of Hungary the benefits are calculated on the basis of income and contributions paid, the Competent Institution of the Republic of Hungary shall take into account only the income or contributions paid under the legislation which it applies.

Article 18

Creditable period less than 1 year

Where the total creditable periods completed under the legislation of the Republic of Hungary is less than 365 days, provided that no eligibility to benefits is established only on the basis of this creditable period, the Competent Institution of the Republic of Hungary shall not apply totalisation and shall not grant any benefit for a period shorter than 365 days.

Article 19

Concurrence of benefits

1. In relation to the Republic of Hungary, the legislation which excludes or limits eligibility to benefits or benefits in the case of concurrence of eligibility, benefits or incomes, shall be applied as appropriate to cases arising from the application of the legislation of Australia.
2. In relation to the Republic of Hungary, it shall not be possible to acquire or to maintain eligibility to several benefits or incomes of similar type based on the same mandatory insurance period in keeping with this Agreement. This shall not apply to benefits for invalidity, old age or death.

PART V

MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

Article 20

Lodgement of Documents

1. A claim, appeal or other documentation concerning a benefit, whether payable by virtue of this Agreement or otherwise, may be lodged in the territory of either Contracting Party in accordance with the Administrative Arrangement made pursuant to Article 22 at any time after the Agreement enters into force.
2. The date on which a claim, appeal or other documentation referred to in Article 20.1 is lodged with the Competent Institution of one Contracting Party shall be considered as the date of lodgement of that claim, appeal or other documentation with the Competent Institution of the other Contracting Party. The Competent Institution with which a claim, appeal or other documentation is lodged shall refer it without delay to the Competent Institution of the other Contracting Party.
3. A claim for a benefit from one Contracting Party shall be considered as a claim for the corresponding benefit from the other Contracting Party so long as the claimant has indicated in that claim that there is, or there was, an affiliation with the social security system of that

other Contracting Party. For Australia, this provision shall not be applied if the completed claim for Australian benefit is not received by the Australian Competent Institution within 12 months of the date of lodgement of the claim for the Hungarian benefit.

4. A claim, appeal or other documentation may not be rejected by a Competent Authority or Competent Institution solely because it is in the language of the other Contracting Party.

5. The reference in Article 20.1 to an appeal is a reference to an appeal that may be made to an administrative body under the legislation of either Contracting Party.

Article 21

Payment of Benefits

1. If a Contracting Party imposes legal or administrative restrictions on the transfer of currency outside of its territory, that Contracting Party shall implement measures as soon as practicable to guarantee the rights to payment and delivery of benefits payable under the legislation of that Contracting Party or by virtue of this Agreement. The measures shall operate retrospectively to the time when the restrictions were imposed.

2. A benefit payable by a Contracting Party by virtue of this Agreement shall be paid by that Contracting Party without deduction for government administrative fees and charges.

3. Payments made under the scope of this Agreement shall be carried out on the basis of rules which are in force in the territory of the Contracting Parties at the date of such payments.

4. Any exemption granted from fees and duties in respect of certificates and documents required to be submitted to the Competent Authorities and Competent Institutions of one Contracting Party, shall also apply to certificates and documents which, for the purposes of this Agreement, need to be submitted to the competent Authority or Competent Institution of the other Contracting Party. Documents and certificates required to be produced for the purpose of this Agreement shall be exempt from authentication by diplomatic and consular authorities.

Article 22

Administrative Arrangement

1. The Competent Authorities of the Contracting Parties shall establish, by means of an Administrative Arrangement, the measures necessary for the implementation of this Agreement.
2. The Competent Authorities shall appoint Liaison Agencies which are to be listed in the Administrative Arrangement.
3. Without prejudice to the provisions laid down in paragraph 1, the Liaison Agencies and the Competent Institutions, shall be entitled, with the involvement of the Competent Authorities, to agree on measures that are necessary and appropriate for the implementation of this Agreement, including the procedures of reimbursement and payment of benefits.

Article 23

Exchange of Information and Mutual Assistance

1. The Competent Authorities and Competent Institutions responsible for the application of this Agreement shall, to the extent permitted by their national laws:
 - (a) communicate to each other any information necessary for the application of this Agreement or the social security law of Australia or the legislation of the Republic of Hungary;
 - (b) provide assistance to each other with regard to the determination or payment of any benefit under this Agreement as if the matter involved the application of their own legislation;
 - (c) 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 in so far as these changes affect the application of this Agreement; and
 - (d) assist each other, at the request of the claimant, in relation to the implementation of agreements on social security entered into by either Contracting Party with third States.

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2. The Competent Institution of a Contracting Party will, to the extent permitted by the legislation which it administers, provide, upon request, to the Competent Institution of the other Contracting Party such medical information and documentation as are available concerning the disability of a claimant or beneficiary.
3. If the Competent Institution of a Contracting Party requires that a claimant or beneficiary who resides in the territory of the other Contracting Party to undergo a medical examination, the Competent Institution of the latter Contracting Party, at the request of the Competent Institution of the first Contracting Party, will make arrangements for carrying out this examination.
4. The assistance referred to in Article 23.1-23.3 shall be provided free of charge, unless otherwise provided for in the Administrative Arrangement pursuant to Article 22.
5. In no case shall the provisions of Article 23.1 be construed so as to impose on a Contracting Party the obligation to:
- (a) carry out administrative measures at variance with the laws or the administrative practice of either Contracting Party; or
 - (b) supply information which is not ordinarily obtainable under the laws or in the normal administrative practice of either Contracting Party.
6. In the application of this Agreement, the Competent Authority and the Competent Institution of a Contracting Party may communicate with the other, or with the person concerned, in any of the official languages of the Contracting Parties.
7. The Competent Institution of the Republic of Hungary may mail decisions by recorded delivery with request of a return receipt, and other documents in registered mail, directly to the person who is present in the territory of either Contracting Party.
8. Claims for benefits, appeals, any related documents and any notification or other communication by a person will be lodged with the Competent Institution of either Contracting Party.
9. The Liaison Agencies of the Contracting Parties will supply to each other in an agreed format relevant information, such as death,

change of address, change of relationship status and changes in the amount of benefits for mutual beneficiaries as they occur.

Article 24

Data protection

Where on the basis of this Agreement and in accordance with the national laws of both Contracting Parties, personal data is transferred, the following provisions shall be applied:

- (a) For the purpose of implementing this Agreement, only personal data necessary for providing benefits or otherwise necessary for the purposes specified in Article 23.1 of this Agreement may be disclosed by one Contracting Party to the Competent Institution of the other Contracting Party. The receiving Contracting Party may process and use this data for such purposes. In all other cases, data may be disclosed to other institutions exclusively with the prior consent of the transmitting Competent Institution and in accordance with the national laws applicable to such institutions;
- (b) The Competent Institution receiving such data shall, upon request and in individual cases, inform the Competent Institution providing the data of the purpose for which it has used the data disclosed and the results of such use;
- (c) The Competent Institution providing data must ensure that the data to be disclosed is accurate, and is necessary and proportional from the point of view of the purpose of data disclosure. At the same time, all valid data provision prohibitions must be taken into consideration, pursuant to the national legislation of that Contracting Party. If it becomes evident that the data disclosed is incorrect, or data has been supplied that may not have been disclosed under the legislation of the Contracting Party providing the data, the receiving Competent Institution shall be notified without delay. The receiving Competent Institution shall correct or delete such data, as appropriate;

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- (d) The Competent Institution as well as the Competent Authority shall inform the person concerned upon their request, on the data about him and the purpose of using such data, on the legal basis for and the duration of the use of the data, and on who and for what purpose has received or shall receive such data. In other respects, the rights of the person concerned with regard to being informed of data held about him/her shall be subject to the national legislation of the Contracting Party whose Competent Institution or Competent Authority was requested to provide the information;
 - (e) If a Competent Institution of one Contracting Party has disclosed personal data under this Agreement, the receiving Competent Institution of the other Contracting Party, within its responsibility under the domestic legislation applicable to it, may not argue against the person concerned that the data provided was incorrect. Payment of compensation for damages due to incorrect provisioning of data shall be governed by the laws of the Contracting Party which provided incorrect information;
 - (f) Personal data received shall be deleted without delay when it is no longer required for the purpose of disclosure;
 - (g) The transmission and receipt of personal data shall be recorded both by the transmitting and by the receiving Competent Institutions;
 - (h) Both the transmitting and the receiving Competent Institutions shall ensure the effective protection of personal data from unauthorized access, illegal alterations and unauthorized disclosure.
 - (i) On the request of the person concerned, both the receiving and the transmitting Competent Institutions shall correct the incorrect data handled by it or delete data handled illegally. The other Competent Institution shall be immediately informed of such correction or deletion;
 - (j) The Contracting Parties shall ensure that, in case of the infringement of the rights related to their personal data

protection, the persons concerned may seek remedy under the laws of the Contracting Party which infringed the person's rights;

- (k) Data processed under this Agreement shall be subject to independent oversight according to the national law of the Contracting Parties.

Article 25

Resolution of Disputes

1. The Competent Authorities of the Contracting 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 Contracting Parties shall consult promptly at the request of either Contracting Party concerning matters which have not been resolved by the Competent Authorities in accordance with Article 25.1.

Article 26

Review of Agreement

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

Article 27

The right of representation of diplomatic and consular missions

The officials of diplomatic and consular missions of the Republic of Hungary functioning in the territory of Australia, upon the request of eligible persons, and without a specific authorisation, in order to ensure and maintain the rights of its nationals, may represent before the Competent Institutions, the Competent Authorities and the related bodies of Australia, taking into consideration the effectual practice and procedural rules of Australia, if the eligible persons are not able to

represent their rights and interests appropriately due to their absence or any other reason.

PART VI

TRANSITIONAL AND FINAL PROVISIONS

Article 28

Transitional and eligibility provisions

1. This Agreement shall not establish any right to a benefit for any period before the date of entry into force of this Agreement.
2. In determining entitlement to a benefit under this Agreement, periods as an Australian resident, periods of Australian working life residence and creditable periods completed under the legislation of the Republic of Hungary before the entry into force of this Agreement shall also be taken into account.
3. Articles 7 and 9 apply from the date of entry into force of this Agreement, even if the employee was sent by his or her employer before that date. For this purpose, the period of secondment is taken to start on the entry into force of this Agreement.

Article 29

Obligation of the Republic of Hungary relating to this Agreement

The present agreement shall in no way prejudice the obligations of the Republic of Hungary as a member state of the European Union. Consequently the provisions of the present Agreement shall not be invoked or interpreted in such a way as to invalidate or otherwise affect the obligations of the Republic of Hungary imposed by the Treaties on which the European Union is founded.

Article 30

Entry into Force

This Agreement shall enter into force on the first day of the third month following the month in which notes are exchanged by the Contracting Parties through the diplomatic channel notifying each other that all treaty

and legislative requirements as are necessary to give effect to this Agreement have been satisfied.

Article 31

Termination

1. Subject to Article 31.2, this Agreement shall remain in force until the expiration of 12 months from the date on which either Contracting Party receives from the other Contracting Party a note through the diplomatic channel giving notice of termination of this Agreement.
2. In the event of termination, this Agreement shall continue to have effect in relation to all persons who:
 - (a) at the date on which termination takes effect, are in receipt of benefits; or
 - (b) prior to that date 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 Contracting Party by virtue of Articles 7, 9 or 10 of Part II of this Agreement, provided the employee continues to satisfy the criteria of that Article.

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

DONE in two originals at Gödöllő on this 7th day of June two thousand and eleven in the English and Hungarian languages, each text being equally authoritative.

Kevin Rudd
FOR AUSTRALIA

Dr János Martonyi
FOR THE REPUBLIC OF
HUNGARY

Note

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