

**No. 45096\***

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**Switzerland  
and  
Australia**

**Agreement between the Swiss Confederation and Australia on social security. Canberra, 9 October 2006**

**Entry into force:** *1 January 2008 by notification, in accordance with article 34*

**Authentic texts:** *English and French*

**Registration with the Secretariat of the United Nations:** *Switzerland, 8 July 2008*

**Note:** *See also annex A, No. 45096.*

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**Suisse  
et  
Australie**

**Convention de sécurité sociale entre la Confédération suisse et l'Australie. Canberra, 9 octobre 2006**

**Entrée en vigueur :** *1er janvier 2008 par notification, conformément à l'article 34*

**Textes authentiques :** *anglais et français*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Suisse, 8 juillet 2008*

**Note :** *Voir aussi annexe A, No. 45096.*

\* *The texts reproduced below are the original texts of the agreement as submitted. For ease of reference, they were sequentially paginated. The relevant Treaty Series volume will be published in due course.*

*Les textes reproduit ci-dessous sont les textes authentiques de l'accord tel que soumises pour l'enregistrement. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Le volume correspondant du Recueil des Traités sera disponible en temps utile.*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT BETWEEN THE SWISS CONFEDERATION AND  
AUSTRALIA ON SOCIAL SECURITY**

The Swiss Federal Council and the Government of Australia, guided by the wish to regulate relations between their two countries in the field of social protection, have agreed to conclude the following Agreement:

**PART I  
GENERAL PROVISIONS**

**Article 1  
Definitions**

1. In this Agreement the following definitions shall apply:
  - (a) **“Contracting States”** means the Swiss Confederation and the Government of Australia;
  - (b) **“territory”** means,
    - (i) in relation to Switzerland, the territory of Switzerland;
    - (ii) in relation to Australia, Australia as defined in the legislation of Australia;
  - (c) **“national”** means,
    - (i) in relation to Switzerland, a Swiss national;
    - (ii) in relation to Australia, an Australian citizen;
  - (d) **“legislation”** means,
    - (i) in relation to Switzerland, the laws specified in subparagraph 1(a) of Article 2; and

- (ii) in relation to Australia, the law specified in subparagraph 1(b)(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 laws specified in subparagraph 1(b)(ii) of Article 2;
- (e) **“Competent Authority”** means,
  - (i) in relation to Switzerland, the Federal Social Insurance Office; and
  - (ii) in relation to Australia, the Secretary of the Department responsible for the application of the legislation in subparagraph 1(b)(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 Commissioner of Taxation or an authorised representative of the Commissioner;
- (f) **“Competent Institution”** means,
  - (i) in relation to Switzerland, the institution which has the task of implementing the Swiss legislation; and
  - (ii) in relation to Australia, the institution or agency which has the task of implementing the applicable Australian legislation;
- (g) **“period of Australian working life residence”** means, in relation to a person, the period defined as such under the legislation of Australia but does not include any period deemed pursuant to Article 18 to be a period in which that person was an Australian resident;
- (h) **“insurance periods”** means, in relation to Switzerland, the contribution periods as well as equivalent periods which are determined or recognised as insurance periods under the Swiss legislation;
- (i) **“benefit”** means, in relation to a Contracting State, 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, but for Australia, does not include any benefit, payment or entitlement under the law concerning the superannuation guarantee;

- (j) **“reside”** means, in relation to Switzerland, stay ordinarily;
  - (k) **“domicile”** means, in relation to Switzerland and within the meaning of the Swiss Civil Code, the place in which a person is staying with the intention of living there permanently;
  - (l) **“refugee”** means a refugee as defined by the Convention on the Status of Refugees of 28 July 1951 and the Protocol of 31 January 1967 to that Convention;
  - (m) **“stateless person”** means a stateless person as defined by the Convention on the Status of Stateless Persons of 28 September 1954;
  - (n) **“family members and survivors”** means, in relation to Switzerland, family members and survivors, whose rights are derived from a national of a Contracting State, from a refugee or from a stateless person;
  - (o) **“widowed person”** means, in relation to Australia, a person who stops being a member of a couple because of the death of the person's legal husband or wife, but does not include a person who has a partner.
2. Unless the context otherwise requires, any term not defined in this Agreement has the meaning assigned to it in the applicable legislation.

**Article 2**  
**Legislative Scope**

Subject to paragraph 2, this Agreement shall apply to the following laws and regulations as amended at the date of signature of this Agreement, and to any laws and regulations that subsequently amend, supplement, supersede or replace them:

- (a) in relation to Switzerland:
  - (i) the Federal Act on old-age and survivors' insurance;
  - (ii) the Federal Act on disability insurance;

- (b) 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 insofar as those Acts or regulations provide for, apply to or affect the following benefits:
    - A. age pension;
    - B. disability support pension for the severely disabled;
    - C. pensions payable to widowed persons;
    - D. double orphan pension; and
    - E. carer payment;
  - (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*, the *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee (Administration) Regulations*.
- 2. Notwithstanding the provisions of subparagraph 1(b), this Agreement shall apply to women who are receiving wife pension at the date this Agreement comes into force and who are the wives of:
  - (a) persons receiving age pension; or
  - (b) persons receiving disability support pension for the severely disabled.
- 3. This Agreement shall apply to laws or regulations which extend the existing legislation to other categories of beneficiaries or which involve a new branch of social security only if both Contracting States so agree in a Protocol to this Agreement.
- 4. Laws within the meaning of paragraph 1 shall not include treaties or other international agreements on social security that may be concluded between one of the Contracting States and a third State.

### Article 3 Personal Scope

This Agreement shall apply:

- (a) in relation to Switzerland,
  - (i) to the nationals of the Contracting States as well as to their family members and survivors;