

No. 47748

**Australia
and
Finland**

Agreement between Australia and the Republic of Finland on social security. Helsinki, 10 September 2008

Entry into force: *1 July 2009 by notification, in accordance with article 25*

Authentic texts: *English and Finnish*

Registration with the Secretariat of the United Nations: *Australia, 14 September 2010*

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Accord de sécurité sociale entre l'Australie et la République de Finlande. Helsinki, 10 septembre 2008

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Enregistrement auprès du Secrétariat des Nations Unies : *Australie, 14 septembre 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN AUSTRALIA AND THE REPUBLIC OF FINLAND ON SOCIAL SECURITY

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

Wishing to strengthen the existing friendly relations between the two countries and resolved to coordinate their social security systems and to eliminate double coverage for seconded workers;

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 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 to the Commonwealth Department responsible for the legislation 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 Commissioner of Taxation or an authorised representative of the Commissioner; and,
 - in relation to Finland:
the Ministry of Social Affairs and Health;
- (c) “Competent Institution” means,
 - in relation to Australia:
the institution or agency which has the task of implementing the legislation in subparagraph 1(a) of Article 2; and
 - in relation to Finland:

an institution or body in charge of the implementation of the legislation and schemes referred to in subparagraph 1(b) of Article 2;

- (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 laws specified in subparagraph 1(a)(ii) of Article 2, and

in relation to Finland:

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

- (e) “period of Australian working life residence” means 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;

- (f) “period of insurance” means, in relation to Finland a period of employment or any equivalent period under the Earnings-Related Pension Scheme or a period of residence under the National Pensions Act;

- (g) “residence” means, in relation to Finland, residence as defined in the legislation of Finland;

- (h) “territory” means,

in relation to Australia:

Australia as defined in the legislation of Australia and

in relation to Finland:

the territory of Finland.

2. Any term not defined in this Agreement, unless the context otherwise requires, has the meaning assigned to it in the applicable legislation.

ARTICLE 2

Legislative Scope

1. This Agreement shall apply to the following laws and schemes, as amended at the date of signature of this Agreement, and to any laws and schemes that subsequently amend, supplement, or replace them:

- (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) 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 Finland:

(i) the Earnings-Related Pension Scheme;

(ii) the National Pensions Act in so far as the law provides for, applies to or affects old age pension including early old age pension and the Employer's Social Security Contributions Act in so far as the Act applies to the National Pension Insurance Contribution.

2. This Agreement shall not apply to future legislation which extends the existing legislation of one Party to new categories of beneficiaries unless the Competent Authorities of the Parties agree otherwise.

3. Notwithstanding the provisions of paragraph 1, unless otherwise specified the legislation of either Party shall not include any other agreement on social security entered into by either Party.

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 Finland.

ARTICLE 4

Equality of Treatment

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

ARTICLE 5

Export of Benefits

1. Unless otherwise provided in this Agreement, benefits of one Party referred to in this Agreement shall be payable to persons who are residents of either Party.

2. In relation to Australia, any additional amount, increase or supplement that is payable in addition to a benefit under this Agreement, shall be payable to a person outside Australia only if it would be so payable if that benefit was payable independently of the Agreement.

PART II
PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

ARTICLE 6
Application of Part II

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 the work of the employee or remuneration paid for the work.

ARTICLE 7
Voluntary insurance under Finnish legislation

This Agreement shall not preclude the opportunity for an employer to voluntarily insure an employee under the Finnish Earnings-Related Pension Scheme.

ARTICLE 8
Diplomatic and Consular Relations

This Agreement shall not affect the application of 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
Secondment and Avoidance of Double Coverage

1. Unless otherwise provided in paragraphs 2 or 3, 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, be subject only to the legislation of that Party.

2. If an employee:

- (a) is covered by the legislation of one Party ('the first Party');
- (b) was sent by the Government of the first Party to work in the territory of the other Party ('the second Party');
- (c) is working in the territory of the second Party in the employment of the Government of the first Party; and
- (d) is not working permanently in the territory of the second Party

the employer of the employee and employee shall be subject only to the legislation of the first Party in respect of the work performed and the remuneration paid for that work. In relation to this Article, Government includes, for Australia, a political subdivision or local authority of Australia, and for