

Social Security Agreement with Japan

Introduction

- 2.1 The Social Security Agreement with Japan¹ coordinates the social security systems of Australia and Japan to provide improved access to pensions for people who move between the two countries. The Agreement also includes provisions to prevent 'double coverage' in relation to compulsory superannuation contributions.

Background

- 2.2 Australia has bilateral social security agreements with 18 other countries: Austria, Belgium, Canada, Chile, Croatia, Cyprus, Denmark, Germany, Ireland, Italy, Malta, the Netherlands, New Zealand, Norway, Portugal, Slovenia, Spain and the United States of America.² In addition to the Social Security Agreement with Japan, Australia has also signed social security agreements with Korea, Switzerland and Greece but these have not entered into force.

1 Full title: *Agreement between Australia and Japan on Social Security*, done at Canberra on 27 February 2007.

2 See the Department of Families, Community Services and Indigenous Affairs website for further information relating to these agreements:
<www.facsia.gov.au/internet/facsinternet.nsf/international/agreements-current.htm>

The Social Security Agreement with Japan

- 2.3 The Social Security Agreement with Japan will provide improved access to the age pension for people who have moved between Australia and Japan during their working life. It is based on the same principles as Australia's other bilateral social security agreements, including the principle of shared responsibility.³ Part I of the Agreement, which sets out the general obligations, obliges both Australia and Japan to treat people covered by the Agreement equally with respect to the payment of benefits and to remove restrictions on the payments of benefits based on residency in the other country.⁴
- 2.4 In practice, this Agreement is similar to Australia's other bilateral social security agreements with some minor exceptions. One of the key differences relates to totalising, which is adding the relevant periods in each country together for the purpose of qualifying for a pension from either country:
- Japan insisted on totalising with employment related periods of Australian working life residence as distinct from just residence in Australia, but that springs primarily from the fact that theirs is a contributory system and qualification for a pension is related to employment in Japan.⁵
- 2.5 Under the Agreement, Australia is obliged to treat residents of Japan as Australian residents for the purpose of claiming and qualifying for an Australian age pension.⁶ Periods of coverage in Japan will be counted as periods of residence in Australia for the purpose of meeting the ten year qualifying period of residence for an Australian age pension. However, the person must have lived in Australia for at least one year between the age of 16 and age pension age.⁷
- 2.6 The Australian age pension is subject to an income and an assets test and individuals have a general obligation to declare all income that they receive from sources in Australia or any other country and any assets they hold in any country.⁸ Centrelink forms for claiming a pension are also clear on this requirement.⁹ Information exchange
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3 NIA, para. 8.

4 Articles 4 and 5 of the Agreement, respectively. NIA, para. 13.

5 Mr Peter Hutchinson, *Transcript of Evidence*, 13 August 2007, pp 11-12.

6 Article 14 of the Agreement, NIA, para. 15.

7 Article 15 of the Agreement, NIA, para. 15.

8 Mr Peter Hutchinson, *Transcript of Evidence*, 13 August 2007, p. 8.

9 Correspondence received from FacSIA, 22 August 2007.

between Centrelink and Australia's bilateral social security partner will also assist in ensuring that the correct Australian pension is received.¹⁰ Public information provided in relation to Australia's social security agreements states that:

All pension claimants, whether in Australia or overseas, need to declare details of their income and assets to Centrelink.¹¹

2.7 Part V of the Agreement sets out some administrative obligations. These include accepting, for the purposes of lodgement deadlines, the date a document is lodged in the other country as the relevant lodgement date,¹² exempting documents submitted pursuant to the Agreement from fees and legalisation requirements,¹³ and a general obligation for Australia and Japan to assist each other in implementing the Agreement, to communicate with each other, to exchange information and for the protection of confidentiality of personal data.¹⁴

2.8 Australian citizens who have worked in Japan and paid contributions into the Japanese pension system are currently eligible for a limited refund of the contribution of up to three years of contribution. The Committee was informed that:

If you are working in Japan, you have to work there and make contributions for 25 years to qualify for a pension. Japan gives people a limited refund of up to three years of contributions. So, if you have worked in Japan for five years, when you leave you can get up to three years of your contributions back. But that is it. That feature will remain under the agreement so people will have a choice, if they have worked in Japan for seven years, of leaving those seven years in the Japanese system and taking a part-pension based on seven years contributions, or taking three years contributions and claiming the other four years as a part-pension or a mixture. Otherwise, it is very much the same as our other agreements.¹⁵

10 See Mr Peter Hutchinson, *Transcript of Evidence*, 13 August 2007, p. 8.

11 FaCSIA, *Exhibit 1*, p. 2.

12 Article 20 of the Agreement.

13 Article 22 of the Agreement.

14 Article 23 of the Agreement.

15 Mr Peter Hutchinson, *Transcript of Evidence*, 13 August 2007, p. 12.

- 2.9 The Social Security Agreement with Japan also includes 'double coverage' provisions to ensure that Australia and Japanese employers do not have to make compulsory superannuation contributions into both countries' systems when an employee is seconded to work in the other country temporarily. The Agreement provides, in Articles 6 to 13, that an employer and employee will only be subject to the legislation of their home country with respect to compulsory contributions where the employee has been temporarily seconded to work in the other country. This arrangement is restricted to five years for private sector employees.¹⁶

Implementation and costs

- 2.10 The Social Security Agreement with Japan will be implemented through the *Social Security (International Agreements) Act 1999* (Cth) ('the Act').¹⁷
- 2.11 The cost of the Agreement is expected to be \$0.297 million over the period 2008-2010 in administrative outlays and \$1.646 million in implementation costs.¹⁸ The Committee queried whether a cost benefit analysis had been undertaken in relation to Australia's 18 bilateral social security agreements. FaCSIA informed the Committee that:

It is a difficult thing to do in terms of specifics because you need to look at an individual record to work out, for example, how much Australia is saving in pension outlays because somebody gets a foreign pension for the first time. There are many variables involved. If the foreign pension is less than the free area, then the Australian pension is not affected. If the person has other income, then the foreign pension might affect the Australian pension immediately. To do it on an individual basis is a complex exercise, but in broad terms we have figures which show that the 18 agreement countries at the moment currently pay approximately \$370 million into Australia per annum, and we are paying approximately \$175

16 NIA, para. 13.

17 NIA, para. 19.

18 NIA, para. 21.

million per annum into those countries. In that broader sense it is in Australia's favour.¹⁹

Consultation

2.12 FaCSIA and the Department of the Treasury sent information relating to the Social Security Agreement with Japan to Japanese community groups, welfare groups, State and Territory governments and a collection of industry and business groups.²⁰ No comments were received.

Conclusion and Recommendation

2.13 The Committee supports Australia's bilateral social security agreements as they provide appropriate access to income support for people who have spent part of their working life in another country and are based on the principle of shared responsibility. The Committee also notes that, in general terms, Australia's bilateral social security agreements provide a financial benefit, not cost, to Australia.

Recommendation 1

The Committee supports the *Social Security Agreement with Japan* and recommends that binding treaty action be taken

¹⁹ Mr Peter Hutchinson, *Transcript of Evidence*, 13 August 2007, p. 13.

²⁰ For a complete list of the groups consulted see NIA, 'Consultation' Annex.

