

**AGREEMENT ON SOCIAL SECURITY BETWEEN THE GOVERNMENT  
OF AUSTRALIA AND THE GOVERNMENT OF THE REPUBLIC OF  
SLOVENIA**

The Government of Australia and the Government of the Republic of Slovenia  
(hereinafter "the Parties"),

Wishing to strengthen the existing friendly relations between the two countries, and  
resolved to cooperate in the field of social security; have agreed as follows:

**GENERAL PROVISIONS**

**ARTICLE 1**

**Definitions**

1. In this Agreement, unless the context otherwise requires;
  - (a) "**Slovenia**" means the Republic of Slovenia;
  - (b) "**benefit**" means, in relation to a Party, any of the benefits, pensions or allowances listed in paragraph 1 of Article 2, and includes any amount, increase or supplement that is payable in addition to that benefit, pension or allowance to a person who is qualified for that amount, increase or supplement under the legislation of that Party;
  - (c) "**Competent Authority**" means,  
  
in relation to Australia:  
the Secretary of the Commonwealth Department responsible for the legislation specified in subparagraph 1(a) of Article 2, and  
  
in relation to Slovenia:  
the Ministry of Labour, Family and Social Affairs;
  - (d) "**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 Slovenia:  
the Institute for Pension and Disability Insurance of Slovenia;

- (e) **"legislation"** means, the laws and other regulations relating to benefits specified in paragraph 1 of Article 2;
- (f) **"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 8 to be a period in which that person was an Australian resident;
- (g) **"period of insurance"** means any period of contribution and any other period taken into account under Slovenian legislation; and
- (h) **"territory"** means,
  - in relation to Australia:  
Australia as defined in the legislation of Australia; and
  - in relation to Slovenia:  
the territory of the Republic of Slovenia.

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**

1. Subject to paragraph 2, this Agreement shall apply to the legislation effective at the date of signature of this Agreement, and to any legislation that subsequently amends, supplements, supersedes or replaces it:

- (a) in relation to Australia, the Acts forming the social security law in so far as the law provides for, applies to or affects the following benefits:
  - (i) age pension; and
  - (ii) disability support pension for the severely disabled;

and

- (b) in relation to Slovenia, the legislation that governs the Pension and Invalidity Insurance except for the provisions concerning the benefits for residual ability to work.

2. This Agreement shall apply to laws or regulations which extend the existing legislation to other categories of beneficiaries only if both Parties so agree in a Protocol to this Agreement.

3. Notwithstanding the provisions of paragraph 1, the legislation of the Parties shall not include treaties or other international agreements concluded between either of them and a third State, except as otherwise provided in this Agreement.

### **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 Slovenia.

### **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 which arise whether directly under the legislation of that Party or by virtue of this Agreement.

### **PROVISIONS RELATING TO BENEFITS**

### **ARTICLE 5**

#### **Export of Benefits**

1. Australian benefits which are payable by virtue of this Agreement shall be payable in the territory of Slovenia.
2. Slovenian benefits to which a person is entitled under Slovenian legislation or by virtue of this Agreement shall be paid to that person in the territory of Australia if that person moves to Australia permanently. It shall be considered that a person has moved to the territory of Australia permanently if this person has informed the Competent Institution that he or she will reside in Australia for a period exceeding 12 months.

3. Where there is a time limit on the continued qualification for an Australian benefit for a person who leaves Australia, then the same time limit shall apply to that benefit for a person who leaves Slovenia.
4. Slovenian benefits to which a person is entitled on the basis of Slovenian legislation or acquired by virtue of this Agreement shall be paid to Australian and Slovenian citizens who permanently reside in the territory of a third country.
5. Australian benefits to which a person is entitled under the legislation of Australia or by virtue of this Agreement shall be paid to Slovenian and Australian citizens who permanently reside in the territory of a third country.
6. If a Party imposes legal or administrative restrictions on the transfer of currency outside of its territory, that Party shall implement measures as soon as practicable to guarantee the rights to payment and delivery of benefits payable under the legislation of that Party or by virtue of this Agreement. The measures shall operate retrospectively to the time when the restrictions were imposed.
7. While the measures in paragraph 6 are being implemented, the Party not imposing the restrictions set out in paragraph 6 may impose restrictions on the payment of its benefits paid under the Agreement in the territory of the other Party, until the other Party has lifted all such restrictions. On the lifting of the restrictions by the other Party and the payment of arrears by that other Party then the first Party shall also pay arrears of its benefits in relation to the entire time during which the first Party's restrictions were imposed.
8. Where a Party has imposed legal or administrative restrictions on the transfer of its currency outside of its territory as mentioned in paragraph 6, it shall inform the other Party of those restrictions within one calendar month of their imposition and shall implement the measures described in that paragraph within 3 months of the imposition of the restrictions. A failure to comply with either requirement may be treated by the other Party as a material breach of the Agreement for the purposes of Article 60 of the Vienna Convention on the Law of Treaties.
9. Benefits paid by a Party outside its territory shall be paid in the currency of the United States of America or another internationally convertible currency.
10. A benefit payable by a Party by virtue of this Agreement or under its legislation shall be paid by that Party without deduction of administrative fees and charges by the government or the corresponding Competent Institution for processing and paying that benefit, whether the person qualifying for the benefit is in the territory of the other Party or in a third country.
11. For Australia, the provisions of this Article shall not apply to rent assistance, pharmaceutical allowance or any other allowance which is not payable indefinitely outside Australia.

12. For Slovenia, the provisions of this Article shall not apply to income supplementary allowances, attendance allowance and cash indemnities payable in respect of disability or any other allowance which is not payable outside Slovenia under the legislation of Slovenia.

## **ARTICLE 6**

### **Medical Examinations**

1. For the purposes of assessing a person's degree of disability or the person's ability to work where this is relevant for a claim for a benefit or for continued payment of a benefit, the Competent Institution of a Party shall apply the legislation of that Party.
2. To assist in the assessment referred to in paragraph 1, the Competent Institution of the Party in whose territory the person resides shall, at the request of the Competent Institution of the other Party forward to the latter free of charge any existing relevant medical reports and documents that it has available.

## **AUSTRALIAN BENEFITS**

### **ARTICLE 7**

#### **Residence or presence in Slovenia 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 for not being an Australian resident and in Australia on the day on which the claim is lodged, but:

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

## **ARTICLE 8**

### **Totalisation for 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 referred to in paragraph 3; and
  - (c) a period of insurance in Slovenia that has already been used or can be used at the time of totalisation, to obtain a Slovenian benefit;

then, for the purposes of the claim for that Australian benefit, that 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.

2. For the purpose of this Article, where a person has a period as an Australian resident and a period of insurance, any period of overlap shall be taken into account once only by Australia as a period as an Australian resident.
3. The minimum period of Australian working life residence to be taken into account for the purposes of paragraph 1 shall be as follows:
  - (a) for the purpose of an Australian benefit claimed by a person residing outside Australia, the minimum period required shall be 12 months, of which at least six months must be continuous; and
  - (b) for the purpose of an Australian benefit claimed by an Australian resident, no minimum period shall be required.

## **ARTICLE 9**

### **Calculation of Australian Benefits**

1. Subject to paragraph 2, where an Australian benefit is payable by virtue of this Agreement to a person outside Australia, the rate of that benefit shall be determined according to the legislation of Australia.

2. The provisions of paragraph 1 will continue to apply for 26 weeks when a person temporarily comes to Australia.
3. Subject to the provisions of paragraphs 4 and 5, where an Australian benefit is granted 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 the Slovenian benefit to which that person or the partner of that person is entitled to receive, if applicable;
  - (b) deducting the amount of the Slovenian benefit to which that person is entitled to receive from the maximum rate of 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).
4. The provisions of paragraph 3 will continue to apply for 26 weeks when a person temporarily leaves Australia.
5. Where a member of a couple is, or both that person and his or her partner are in receipt of a Slovenian benefit or benefits, each of them shall be deemed, for the purpose of paragraph 3 and for the legislation of Australia, to be in receipt of half of either the amount of that benefit or the total of both those benefits as the case may be.
6. Benefits referred to in paragraph 1 do not include rent assistance, pharmaceutical allowance or any other allowance which is not payable indefinitely outside Australia.

## **BENEFITS ACCORDING TO SLOVENIAN LEGISLATION**

### **ARTICLE 10**

#### **Totalisation for Slovenian Benefits**

1. If a person does not fulfil the requirements for pension solely on the basis of his/her period of insurance, the entitlement to a benefit shall be established on the basis of totalising the period of insurance and that of his/her Australian working life residence provided these periods do not overlap.
2. If a person qualifies for a benefit under Slovenian legislation without the need for totalisation of the periods completed in the territories of both Parties, the Competent Institution shall grant the benefit exclusively on the basis of period of insurance.

3. If the period of insurance in total amounts to less than 12 months no benefit shall be granted. This does not apply if there is entitlement to a benefit only on the basis of that lesser period of insurance.

4. Notwithstanding the provision of paragraph 3 of Article 2, where based on the provisions of paragraph 1 of this Article a person does not satisfy conditions for the benefit, the competent institution of Slovenia shall take into account periods of insurance or periods of residence completed by Slovenian nationals in a third State to which Slovenia is bound by an agreement on social security which provides for the totalisation of periods of insurance or residence, respectively.

## **ARTICLE 11**

### **Calculation of Slovenian Benefits**

1. If a person qualifies for a benefit under Slovenian legislation only by the application of the totalisation provisions contained in Article 10 paragraph 1, the Slovenian Competent Institution shall calculate the amount of the benefit in the following way:

- (a) it shall first calculate a theoretical amount of a benefit which would be payable if all totalised periods (being periods of insurance and periods of Australian working life residence) were completed under Slovenian legislation; and
- (b) on the basis of this theoretical amount, it shall then calculate the actual amount of the benefit which is payable according to the ratio of the period of insurance and the totalised periods.

2. If when applying paragraph 1 (b) the totalised periods exceed the longest possible period of insurance defined for the calculation of a benefit under Slovenian legislation, the partial amount payable is calculated according to the ratio of the period of insurance and the longest possible period of insurance.

## **TRANSITIONAL AND FINAL PROVISIONS**

### **ARTICLE 12**

#### **Lodgement of Documents**

1. A claim, notice or appeal concerning a benefit, whether payable by virtue of this Agreement or otherwise, may be lodged in the territory of the other Party, in accordance with the Administrative Arrangement made pursuant to Article 15, at any time after the Agreement has come into force.

2. For the purpose of determining the right to a benefit, the date on which a claim, notice or appeal referred to in paragraph 1, is lodged with the Competent Institution of one Party, shall be considered as the date of lodgement of that document with the Competent Institution of the other 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. The reference in this Article to an appeal is an appeal that may be made to an administrative body or a corresponding body of either Party that has been established by, or administratively for, the purposes of the legislation of each Party.

4. Any exemption granted in the territory of one of the Parties from payment of taxes or fees in respect of certificates and documents required to be submitted to the Competent Authorities and Competent Institutions in the same territory shall also apply to the certificates and documents which, for the purpose of this Agreement, have to be submitted to the Competent Authorities or Competent Institutions of the other 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 13**

### **Recovery of Overpayments**

1. Where:

- (a) an amount of arrears of benefit is paid or payable to a person by the Competent Institution of Slovenia; and
- (b) for all or part of the relevant period, Australia has paid to that person a benefit; and
- (c) the amount of the benefit paid by Australia would have been reduced had the benefit paid or payable by the Competent Institution of Slovenia been paid during that period;

then

- (d) the amount that would not have been paid by Australia 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 Australia and may be recovered by Australia; and
- (e) Australia may recover all or part of that debt under the provisions of the Acts forming the social security law of Australia.

2. Where the Competent Institution of Slovenia has not yet paid the benefit described in subparagraph 1(a) to that person:
  - (a) that Competent Institution shall, at the request of the Competent Institution of Australia, pay the amount of the benefit necessary to meet the debt described in subparagraph 1(d) to the Competent Institution of Australia and shall pay any excess to that person; and
  - (b) any shortfall may be recovered by Australia under subparagraph 1(e).
3. For Australia, a reference in paragraph 1 to a benefit means a pension, benefit or allowance payable under the social security law of Australia.

## **ARTICLE 14**

### **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 the legislation which they administer:
  - (a) subject to paragraphs 3 and 4, communicate to each other any information necessary for the application of this Agreement;
  - (b) lend their good offices and furnish assistance to one another, including the communication to each other of any necessary information, with regard to the determination or payment of any benefit under this Agreement or under the social security law of either Party 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 the Agreement;
  - (d) at the request of one to another, 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 the Administrative Arrangement made in accordance with Article 15; and
  - (e) advise each other of any laws which amend, supplement, supersede or replace their respective legislations and which are relevant to the operation of this Agreement promptly after those laws are made.
2. The assistance referred to in paragraph 1 shall be provided free of charge, subject to any Administrative Arrangement made in accordance with Article 15.

3. Unless disclosure is required under the legislation of a Party, personal data which is transmitted in accordance with this Agreement to a Competent Authority or Competent Institution of that Party is confidential and shall only be used for purposes of implementing this Agreement and the social security laws of either Party.
4. Notwithstanding any laws or administrative practices of a Party, no personal data which is received by that Party from the other Party shall be transferred or disclosed to any other country or to any other organisation within that other country without the prior written consent of that other Party.
5. Communications between Competent Authorities, Competent Institutions and persons to whom this Agreement applies may be made in any of the official languages of the Parties.
6. Reimbursements under this Agreement between Competent Institutions shall be made in the currency of the Party receiving those reimbursements.

## **ARTICLE 15**

### **Administrative Arrangement**

1. The Competent Authorities of the Parties shall make whatever arrangements are necessary in order to implement this Agreement by means of an Administrative Arrangement.
2. The Competent Authorities shall appoint liaison bodies in the Administrative Arrangement.

## **ARTICLE 16**

### **Recognition of Prior Periods and Events**

1. In determining the qualification for a benefit of a person or the amount of benefit payable to a person, by virtue of this Agreement, any events or facts and any period;
  - (a) as an Australian resident;
  - (b) of Australian working life residence; and
  - (c) of insurance

shall, subject to this Agreement, be taken into account in so far as those periods, events or facts are applicable in regard to that person regardless of when they occurred or were accumulated.

2. No provision of this Agreement shall confer on a person any right to receive payment of a benefit in relation to a period before the date on which this Agreement comes into force.

## **ARTICLE 17**

### **Resolution of Difficulties**

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.

## **ARTICLE 18**

### **Review of Agreement**

Where a Party requests the other to meet to review this Agreement the Parties shall meet for that purpose no later than 6 months 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.

## **ARTICLE 19**

### **Entry into Force and Termination**

1. This Agreement shall enter into force on the first day of the month following the month in which notifications are exchanged by the Parties through the diplomatic channel notifying each other that the constitutional requirements for entry into force of this Agreement have been fulfilled.

2. Subject to paragraph 3, this Agreement shall remain in force indefinitely or until the expiration of 6 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.

3. In the event that this Agreement is terminated in accordance with paragraph 2, the Agreement shall continue to have effect in relation to all persons who:

- (a) at the date of termination, are in receipt of its benefits; or

- (b) prior to the expiry of the period referred to in paragraph 2, have lodged claims for, and would be entitled to receive, its benefits

by virtue of this Agreement.

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

DONE in duplicate at Vienna on this 19<sup>th</sup> day of December 2002, in the English and Slovenian languages, each text being equally authoritative.

FOR GOVERNMENT OF  
AUSTRALIA:

AMBASSADOR MAX HUGHES

FOR THE GOVERNMENT OF  
THE REPUBLIC OF SLOVENIA:

AMBASSADOR ERNST PETRIC