

SOCIAL SECURITY AGREEMENT BETWEEN AUSTRALIA AND THE UNITED STATES OF AMERICA

A social security agreement with the United States of America was signed on 27 September 2001. The purpose of this paper is to let the community in Australia know what social security agreements do, and how this Agreement in particular will affect people.

The views of the Australian community, particularly those who are most likely to benefit from the Agreement, are an important part of the Agreement process.

WHY DO WE HAVE SOCIAL SECURITY AGREEMENTS?

The proposed Social Security Agreement between Australia and the United States coordinates the two countries' social security schemes to provide better social security coverage for people who have moved between Australia and the USA.

People who have lived in more than one country often find, when they claim a pension or benefit, that they do not have enough residence or contributions under a social security scheme to qualify for payment.

To help overcome this problem, a network of social security agreements has been set up within the international community.

One of the key elements in these agreements is that the partner countries broadly share the responsibility for social security coverage and related costs. If a person has lived and worked in more than one country, then it is fair that those countries share the responsibility for supporting that person when he/she claims a pension or benefit.

Agreements help many people to receive a part pension from one or both countries, which they would not otherwise get.

It is an important principle that Agreements do not take away existing entitlements.

The proposed Agreement with the USA is Australia's latest agreement of this type - similar agreements are already operating with Austria, Canada, Cyprus, Denmark, Ireland, Italy, Malta, The Netherlands, Portugal, and Spain.

WHAT WILL AUSTRALIA DO UNDER THE AGREEMENT?

To qualify for an Australian pension people normally have to be Australian residents and in Australia on the day a claim for pension is lodged, and certain periods of residence (eg 10 years for an age pension) are required before an Australian pension can be granted. Also, some payments are not payable outside Australia except for temporary absences.

The Agreement modifies these rules so that:

- Australia will treat someone who is resident in the USA as being a resident of Australia and present in Australia, so that the person can lodge a claim for Australian pension;

- Australia will add the person's periods of coverage in the USA to his or her Australian residence so that the person can meet the minimum residence qualifications to get an Australian pension; and
- Australia will pay benefits covered by the Agreement indefinitely in the USA, as long as the person otherwise remains qualified.

WHAT WILL THE UNITED STATES DO UNDER THE AGREEMENT?

In order to qualify for an old-age pension in the USA, a person must normally have a minimum of 40 quarters of coverage (about 10 years of work).

Under the Agreement, providing a person has at least six quarters of coverage, the USA will treat periods of employment or self-employment in Australia during the person's working life *[this is the period between age 16 and Age Pension age]* as US social security credits. This means that people who have less than the required 40 quarters of coverage can count the periods they worked in Australia toward satisfying this minimum requirement. The Agreement will also assist claimants for survivor and disability benefits, including those not currently qualified because they do not meet the residency requirements applying to claimants living outside the USA.

Normally, persons who are not US citizens may receive US Social Security benefits while outside the USA only if they meet certain requirements. Under the Agreement, however, people may receive benefits as long as they reside in Australia, regardless of their nationality.

HOW ARE PENSIONS CALCULATED UNDER THE AGREEMENT?

Australian pensions

People who live in Australia but do not have ten years' residence in Australia can count their US social security credits to qualify for an Australian pension, subject to the means test. During this time (until they have ten years residence in Australia) they will be paid the normal income-tested pension rate less the amount of any US pension - ie, the US pension would be 'topped-up' to the rate of Australian pension. However, if the rate they would be paid while outside Australia (see below) is higher, then they will be paid that rate instead.

Australian pensions in the USA will be based on the person's period of 'Australian Working Life Residence' *[this is the period between age 16 and Age Pension age]*. A full pension, subject to the means test, is payable to a person with 25 years 'Australian Working Life Residence'. For example, under the Agreement, a man who has lived in Australia from age 30 to age 50 (ie 20 years) may, at age 65, be paid 20/25ths of a means-tested Australian age pension in the USA. No pension is paid overseas if a person has less than 12 months Australian Working Life Residence.

USA pensions

The United States will credit a person with one quarter of coverage for every three months of employment-related Australian Working Life Residence certified by Centrelink. These periods of work in Australia may be added to actual US periods of coverage, in order to reach the minimum qualifying periods. However, they are not used in the calculation of the US pension rate. Such 'totalised' US pensions are based on the level of the person's US earnings and the duration of their coverage under US Social Security.

ADMINISTRATION AND LODGEMENT OF CLAIMS

The Agreement will create administrative links between the social security systems of the USA and Australia which will help pensioners in one country in their dealings with the social security authorities of the other.

A claim for a US pension, lodged in the US, will also protect the rights of claimants regarding an Australian pension if the person indicates on the claim that they have been Australian residents during their working life. Similarly, a claim for an Australian pension, lodged in Australia, will protect a person's US pension rights if the person indicates he or she has periods of coverage in the USA.

DOUBLE SUPERANNUATION COVERAGE

The Agreement between Australia and the USA also includes provisions that address the problem of double coverage. Double coverage can arise where an employee is sent from one country to another and compulsory superannuation (or equivalent) contributions are required under the laws of both countries for the same work. The Agreement provides that, in these situations, the employer/employee will only be subject to the legislation of their home country. For example, where an employer sends an employee from Australia to work temporarily in the USA, and double coverage would arise, the Agreement provides that the employer will instead only be required to make Australian Superannuation Guarantee contributions and will be exempted from making contributions under USA law. Equivalent provisions apply for a US employee seconded to Australia.

WHEN WILL THE NEW AGREEMENT START?

The Agreement is expected to begin operating on 1 October 2002, after the necessary treaty, legislative and administrative processes are completed in both countries.

WHERE CAN I FIND MORE INFORMATION?

Further information and the text of the Agreement can be found on the Department of Family and Community Services website at:

http://www.facs.gov.au/internet/facsinternet.nsf/aboutfacs/international/usa-usa_agreement.htm

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