

Hon. Mr. Parry

SOCIAL SECURITY (RECIPROCITY WITH AUSTRALIA)

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A BILL INTITULED

AN ACT to Provide for Reciprocity with Australia in Title.
Relation to Social Security.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Social Security (Reciprocity with Australia) Act, 1948. Short Title and commencement.

2 *Social Security (Reciprocity with Australia)*

(2) This Act shall come into force on a day to be appointed for the commencement thereof by the Governor-General by Proclamation.

PART I

PRELIMINARY

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- Interpretation. **2.** In this Act, unless the context otherwise requires,—
- “ Appropriate authority ” means, in relation to New Zealand, the Commission, and, in relation to Australia, the Director-General of Social Services: 15
- “ Commission ” means the Social Security Commission established under the principal Act: 15
- 1938, No. 7 “ Principal Act ” means the Social Security Act, 1938: 15
- “ Social Services Consolidation Act ” means the Social Services Consolidation Act, 1947-48, of the Commonwealth of Australia; and includes any Act passed in amendment thereof or in substitution therefor. 20
- Approval of reciprocity agreement. **3.** The execution on behalf of the Government of New Zealand of the agreement set out in the Schedule to this Act is hereby approved. 20

PART II

FORMER RESIDENTS OF AUSTRALIA

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- Persons to whom this Part applies. **4.** (1) This Part of this Act applies to every person who, having at any time resided in Australia, is permanently resident in New Zealand.
- (2) For the purposes of this Part of this Act a person shall be deemed to be permanently resident in New Zealand— 30
- (a) If he is resident in New Zealand and satisfies the Commission that he is residing permanently in New Zealand; or
- (b) If he is resident in New Zealand and that residence has been continuous for not less than six months, unless the appropriate authorities in New Zealand and Australia agree that the residence is not to be regarded as permanent. 35

5. For the purposes of any application for a benefit under the principal Act for or in respect of any person to whom this Part of this Act applies, the Commission shall treat the residence in Australia of that person or of any other person as if it were residence in New Zealand, and shall regard any person born in Australia as a person born in New Zealand.

Residence or birth in Australia to be treated as residence or birth in New Zealand.

6. No person shall be entitled by virtue only of this Part of this Act to receive an age-benefit, an invalid's benefit, or a widow's benefit under the principal Act unless that person would have been qualified on residential grounds to receive, as the case may be, an age pension, an invalid pension, or a widow's pension under the Social Services Consolidation Act if his or her residence in New Zealand had been residence in Australia.

Additional residential qualification for age, invalid's, or widow's benefit.

7. No male person shall be entitled by virtue only of this Part of this Act to receive an age-benefit under the principal Act unless he has attained the age of sixty-five years.

Age of male person entitled to age-benefit.

8. For the purposes of any application for an invalid's benefit under the principal Act for any person to whom this Part of this Act applies, the Commission shall treat blindness or permanent incapacity for work occurring in Australia as if it had occurred in New Zealand.

Invalid's benefit for person incapacitated in Australia.

9. Notwithstanding anything to the contrary in the principal Act, any benefit granted by the Commission by virtue of this Part of this Act shall commence on such day as the Commission in its discretion determines, whether before or after the date on which application for the benefit is received by the Commission.

Commencement of benefits.

PART III

PERSONS TEMPORARILY RESIDENT IN AUSTRALIA

10. This Part of this Act applies to every person who, although ordinarily resident in New Zealand, is temporarily resident in Australia.

Persons to whom this Part applies.

11. A person to whom this Part of this Act applies shall not by reason only of his temporary residence in Australia be disqualified from applying for and receiving payment of any benefit under Part II of the

Temporary residence in Australia not a disqualification for benefit.

principal Act to which he would be entitled (whether by virtue of Part II of this Act or otherwise) if he had remained in New Zealand:

Provided that the Commission may in its discretion postpone the payment of the whole or any part of a benefit to any such person until he returns to New Zealand. 5

Benefits may be applied for and paid in Australia.

12. (1) The Commission may appoint the Director-General of Social Services in Australia to act as its agent to receive applications from and to make payments to persons to whom this Part of this Act applies in respect of benefits under Part II of the principal Act. 10

(2) For the purposes of Part II of the principal Act every application for a benefit received by any officer of the Department of Social Services in Australia by virtue of this section shall be deemed to have been received by the Commission on the same day. 15

PART IV

GENERAL

Benefit for wife of inmate of mental hospital in Australia.

13. For the purposes of any application for a widow's benefit under the principal Act, the Commission shall treat any person who is an inmate of a hospital for the insane in Australia as if he were detained in an institution under the Mental Defectives Act, 1911. 20

See Reprint of Statutes, Vol. V, p. 743

Benefit not payable for same period as Australian benefit.

14. No person shall be entitled to receive a benefit under the principal Act in respect of any period for which he has been paid the analogous pension, allowance, endowment, or benefit under the Social Services Consolidation Act. 25

Moneys payable out of Social Security Fund for purposes of this Act.

15. There shall be paid out of the Social Security Fund, without further appropriation than this Act,— 30

(a) All moneys required to be expended in providing pensions, allowances, endowments, or benefits on behalf of the Government of Australia in accordance with the agreement set out in the Schedule to this Act: 35

(b) All moneys required to be paid to the Government of Australia under the said agreement in respect of benefits paid on behalf of the Commission in accordance with Part III of this Act. 40

16. (1) The Age-benefits and Invalids' Benefits (Reciprocity with Australia) Act, 1943, is hereby repealed. Repeal and savings.
1943, No. 18

(2) All benefits granted under the principal Act by virtue of the Act hereby repealed, and subsisting at the commencement of this Act, shall be reviewed, and any necessary adjustments in the rates thereof shall be made as from the commencement of this Act:

Provided that where the beneficiary to or in respect of whom any such benefit has been granted is not a person to whom Part II of this Act applies the benefit shall be continued during the temporary residence of the beneficiary in New Zealand as if the Act hereby repealed had continued in force.

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN
THE GOVERNMENT OF AUSTRALIA AND THE
GOVERNMENT OF NEW ZEALAND

THE Government of Australia and the Government of New Zealand, being desirous of enabling residents of Australia taking up permanent residence in New Zealand, and residents of New Zealand taking up permanent residence in Australia, to acquire rights to social security or social service benefits and pensions in New Zealand or Australia, respectively, to which they would not otherwise be entitled, and of providing for payment on an agency basis of Australian social service pensions and benefits in New Zealand to Australian residents temporarily resident in New Zealand, and of New Zealand social security benefits in Australia to New Zealand residents temporarily resident in Australia, have agreed as follows:—

PART I.—PRELIMINARY

1. In this agreement, unless the context otherwise requires,—
 - “ The appropriate authority ” means, in relation to Australia, the Director-General of Social Services and, in relation to New Zealand, the Social Security Commission:
 - “ The Director-General ” means the Director-General of Social Services in Australia:
 - “ The Government of Australia ” means the Government of the Commonwealth of Australia:
 - “ The Social Security Act ” means the Social Security Act, 1938, of New Zealand and includes that Act as at any time amended and any Act passed in substitution for that Act:
 - “ The Social Security Commission ” means the Social Security Commission of New Zealand:
 - “ The Social Services Consolidation Act ” means the Social Services Consolidation Act, 1947–1948, of the Commonwealth of Australia, and includes that Act as at any time amended and any Act passed in substitution for that Act.
2. There shall be reciprocity between Australia and New Zealand on the terms set out in this agreement in respect of the payment of the following pensions, allowances, endowment, and benefits under the Social Services Consolidation Act and the Social Security Act, respectively:—
 - (a) Age-pensions and age-benefits;
 - (b) Invalid pensions (including wives' and children's allowances) and invalids' benefits;
 - (c) Widows' pensions and widows' benefits;
 - (d) Child endowment and family benefits;
 - (e) Unemployment benefits; and
 - (f) Sickness benefits.

PART II.—ENTITLEMENT TO RECIPROCAL GRANTS

3. (1) This part of this agreement shall apply to any person—

(a) Who, while in Australia, applies to the Government of Australia for a pension, allowance, endowment, or benefit under the Social Services Consolidation Act; and—

(i) Has at any time resided in New Zealand; and

(ii) Satisfies the Director-General that he is residing permanently in Australia; or

(b) Who, while in New Zealand, applies to the Government of New Zealand for a benefit under the Social Security Act; and—

(i) Has at any time resided in Australia; and

(ii) Satisfies the Social Security Commission that he is residing permanently in New Zealand.

(2) For the purposes of this Part of this Agreement—

(a) A person who has resided in Australia for a continuous period of six months shall, during any further period of continuous residence immediately following the expiration of the said period of six months, be deemed to be permanently resident in Australia unless the appropriate authorities of Australia and New Zealand agree to the contrary; and

(b) A person who has resided in New Zealand for a continuous period of six months shall, during any further period of continuous residence immediately following the expiration of the said period of six months, be deemed to be permanently resident in New Zealand unless the appropriate authorities of Australia and New Zealand agree to the contrary.

4. The Government of Australia will, in dealing with an application for a pension, allowance, endowment, or benefit under the Social Services Consolidation Act by a person to whom this part of this agreement applies, treat residence in New Zealand as if it had been residence in Australia and will regard a person born in New Zealand as a person born in Australia.

5. No person shall be entitled, by virtue only of this part of this agreement, to receive an age, invalid, or widow's pension under the Social Services Consolidation Act unless that person would have been qualified on residential grounds to receive the comparable benefit under the Social Security Act if his residence in Australia had been residence in New Zealand.

6. The Government of New Zealand will, in dealing with an application for a benefit under the Social Security Act by a person to whom this part of this agreement applies, treat residence in Australia as if it had been residence in New Zealand and will regard a person born in Australia as a person born in New Zealand.

7. No person shall be entitled, by virtue only of this part of this agreement, to receive an age, invalid's, or widow's benefit under the Social Security Act unless that person would have been qualified on residential grounds to receive the comparable pension under the Social Services Consolidation Act if his residence in New Zealand had been residence in Australia.

8. No male person shall be entitled by virtue only of this part of this agreement to receive an age-benefit under the Social Security Act unless he has attained the age of sixty-five years.

9. Where a person resident in Australia was, at any time before becoming so resident, resident in New Zealand, and that person applies to the Government of Australia for an invalid pension, the Government of Australia will, in dealing with the application, treat blindness or permanent incapacity for work which occurred in New Zealand as if it had occurred in Australia.

10. Where a person resident in New Zealand was, at any time before becoming so resident, resident in Australia, and that person applies to the Government of New Zealand for an invalid's benefit, the Government of New Zealand will, in dealing with the application, treat blindness or permanent incapacity for work which occurred in Australia as if it had occurred in New Zealand.

11. Where a woman resident in New Zealand applies to the Government of New Zealand for a widow's benefit and her husband was resident in Australia at the time of his death or, if he was resident in New Zealand at the time of his death, his last preceding place of residence was in Australia, the Government of New Zealand will, for the purposes of the application, treat residence of the husband in Australia as if it had been residence in New Zealand.

12. In the application of this agreement to widows' pensions and to widows' benefits—

(a) A person who is an inmate of a hospital for the insane in Australia shall, for the purposes of the Social Security Act, be deemed to be a person detained in New Zealand in an institution under the Mental Defectives Act, 1911; and

(b) A person who is detained in New Zealand in an institution under the Mental Defectives Act, 1911, shall, for the purposes of the Social Services Consolidation Act, be deemed to be an inmate of a hospital for the insane.

13. In determining the amount of a pension, allowance, endowment, or benefit payable to a person in pursuance of this part of this agreement, the pension, allowance, endowment, or benefit shall, subject to the provisions of this part of this agreement, be granted, computed, and assessed under the provisions of the laws of Australia or of New Zealand according to the country in which that person is resident.

14. A pension, allowance, endowment, or benefit payable in pursuance of this part of this agreement shall be paid in accordance with the conditions and practice for the time being in force in Australia or New Zealand, as the case may be, in relation to pensions, allowances, endowments, or benefits of that class.

15. Nothing in this part of this agreement shall affect the entitlement of a person to a pension, allowance, endowment, or benefit to which he would have been entitled if this agreement had not been made.

PART III.—PAYMENT ON AN AGENCY BASIS

16. This part of this agreement shall apply to persons ordinarily resident in Australia who are in New Zealand and to whom Part II of this agreement does not apply and to persons ordinarily resident in New Zealand who are in Australia and to whom Part II of this agreement does not apply.

17. (1) Where a person ordinarily resident in Australia is in New Zealand and, in the opinion of the Social Security Commission, that person is not permanently resident in New Zealand, that person shall not, by reason only of his absence from Australia, be disqualified from receiving any pension, allowance, endowment, or benefit under the Social Services Consolidation Act to which he would have been entitled if he had remained in Australia.

(2) The Director-General may, in any such case, withhold payment of the whole or such part of the pension, allowance, endowment, or benefit as he thinks fit until the return of that person to Australia.

18. (1) Where a person ordinarily resident in New Zealand is in Australia and, in the opinion of the Director-General, that person is not permanently resident in Australia, that person shall not, by reason only of his absence from New Zealand, be disqualified from receiving any benefit under the Social Security Act to which he would have been entitled if he had remained in New Zealand.

(2) The Social Security Commission may, in any such case, withhold payment of the whole or such part of the benefit as it thinks fit until the return of that person to New Zealand.

19. (1) The Government of New Zealand agrees to act, without payment, as agent for the Government of Australia in the receipt of applications for, and the payment in New Zealand of, pensions, allowances, endowments, and benefits under the Social Services Consolidation Act in accordance with this part of this agreement.

(2) The Government of Australia agrees to act, without payment, as agent for the Government of New Zealand in the receipt of applications for, and the payment in Australia of, benefits under the Social Security Act in accordance with this part of this agreement.

20. If a person ordinarily resident in New Zealand makes, while in Australia, an application to the Director-General for a pension, allowance, endowment, or benefit under the Social Services Consolidation Act or for a benefit under the Social Security Act, the Government of New Zealand will accept the application as an application properly made for the appropriate

benefit under the Social Security Act, and the date of receipt of the application by the Director-General shall be regarded as the date of receipt by the Social Security Commission.

21. If a person ordinarily resident in Australia makes, while in New Zealand, an application to the Social Security Commission for a benefit under the Social Security Act or a pension, allowance, endowment, or benefit under the Social Services Consolidation Act, the Government of Australia will accept the application as an application properly made for the appropriate pension, allowance, endowment, or benefit under the Social Services Consolidation Act, and the date of receipt of the application by the Social Security Commission shall be regarded as the date of receipt by the Director-General.

22. (1) Where, in accordance with this part of this agreement, the Government of New Zealand has paid on behalf of the Government of Australia pensions, allowances, endowments, or benefits to residents of Australia who are in New Zealand, the Government of Australia will pay to the Government of New Zealand the amount so paid on its behalf.

(2) Where, in accordance with this part of this agreement, the Government of Australia has paid on behalf of the Government of New Zealand benefits to residents of New Zealand who are in Australia, the Government of New Zealand will pay to the Government of Australia the amount so paid on its behalf.

(3) Each Government will submit to the other Government, half-yearly or at such intervals as are agreed upon between them, a statement containing particulars of all payments made by that Government in accordance with this part of this agreement and any necessary financial adjustments shall then be made between the Governments of the two countries.

PART IV.—GENERAL

23. Any claim for a pension, allowance, endowment, or benefit by virtue of Part II of this agreement shall, or any claim for a pension, allowance, endowment, or benefit by virtue of Part III of this agreement may, be made to the appropriate authority of the country in which the applicant is then present.

24. Each party to this agreement will, on request, afford to the other such party any information in the possession of the first-mentioned party relating to any person in relation to whom this agreement applies, or to the spouse or child of any such person, and will at all times provide such assistance as is reasonably required in obtaining any information for the purpose of determining any claim for any pension, allowance, endowment, or benefit under the Social Services Consolidation Act or for any benefit under the Social Security Act.

25. Except as provided in Part III of this agreement, there shall be no financial adjustments between the Government of Australia and the Government of New Zealand in respect of any payments made to any person by virtue of this agreement.

26. A person shall not be entitled to receive any pension, allowance, endowment, or benefit by virtue of Part III of this agreement in respect of any period for which he is entitled to

receive a pension, allowance, endowment, or benefit by virtue of Part II of this agreement.

27. This agreement shall, in its application to any of the pensions, allowances, endowments, or benefits specified in clause 2 of this agreement, come into force in Australia and in New Zealand on such date as is agreed upon between the parties to this agreement.

28. This agreement shall remain in force until the expiration of six months from the date of delivery of written notice of termination by either party to this agreement to the other party.

29. (1) This agreement shall supersede the agreement dated the third day of September, one thousand nine hundred and forty-three, providing for reciprocity with respect to old-age pensions and age-benefits and invalid pensions and invalids' benefits, and every pension granted by the Government of Australia and every benefit granted by the Government of New Zealand by virtue of that agreement and in force immediately before the commencement of this agreement shall thereupon be deemed to be a pension or benefit granted by virtue of this agreement, and any necessary adjustments in the respective rates thereof shall be made as from the commencement of this agreement.

(2) Notwithstanding anything to the contrary in this agreement, a pension, allowance, or benefit granted by virtue of the agreement superseded by this agreement which could not have been granted by virtue of Part II of this agreement if this agreement had been in force when that pension, allowance, or benefit was granted shall continue under that superseded agreement and shall not be subject to this agreement until the pensioner or beneficiary has resided in the country in which he is receiving that pension, allowance, or benefit for a continuous period of six months.