



**THE SOCIAL WELFARE (RECIPROCITY WITH THE HELLENIC
REPUBLIC) ORDER 1993**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 20th day of October 1993

Present:

THE RIGHT HON. W. F. BIRCH PRESIDING IN COUNCIL

PURSUANT to section 19 of the Social Welfare (Transitional Provisions) Act 1990, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

ORDER

1. Title and commencement—(1) This order may be cited as the Social Welfare (Reciprocity with the Hellenic Republic) Order 1993.

(2) This order shall come into force on the 28th day after the date of its notification in the *Gazette*.

2. Adoption of agreement and modification of Acts—(1) The provisions contained in the agreement set out in the Schedule to this order shall have force and effect so far as they relate to New Zealand.

(2) The provisions of the Social Welfare (Transitional Provisions) Act 1990 and of the Social Security Act 1964 and of the regulations and orders in force under those Acts shall have effect subject to such modifications as may be required for the purpose of giving effect to the said agreement.

Clause 2

SCHEDULE

**AGREEMENT ON SOCIAL SECURITY BETWEEN
THE GOVERNMENT OF NEW ZEALAND****AND****THE GOVERNMENT OF THE HELLENIC REPUBLIC**

The Government of New Zealand

and

The Government of the Hellenic Republic

WISHING to maintain and strengthen the warm and friendly relations existing between the two countries and allow the payment of pensions from Greece in New Zealand and the payment of New Zealand benefits in Greece in respect of citizens taking up permanent residence in the other country,

Have agreed upon the following:

PART I**DEFINITIONS AND SCOPE****Article 1****Definitions**

1. In this Agreement unless the context otherwise requires:
 - (a) **“benefit”** means a New Zealand benefit or pension payable in terms of the Social Security Act 1964 or the Social Welfare (Transitional Provisions) Act 1990; and for Greece means: the old age, survivors and invalidity benefits including any increase or supplement payable under the Greek legislation;
 - (b) **“competent authority”** means in relation to New Zealand, the Director General of Social Welfare or an authorised representative of the Director General; and in relation to Greece, the Minister for Health, Welfare and Social Security;
 - (c) **“competent institution”** in relation to a contracting party means, an institution which is responsible for the application of this Agreement in respect of a contracting party;

SCHEDULE—*continued*

- (d) **“legislation”** means in relation to a contracting party the laws specified in Article 2 in relation to that contracting party;
 - (e) **“New Zealand”** means New Zealand only and not the Cook Islands, Niue and Tokelau;
“Greece” means the territory of Greece;
 - (f) **“national”** in relation to New Zealand, means a New Zealand citizen or New Zealand national and in relation to Greece, a Greek citizen;
 - (g) **“residence in New Zealand”** means residence as defined in the New Zealand social security legislation;
 - (h) **“period of insurance”** means a period of contributions used to acquire a right to a benefit and any equivalent period under the Greek legislation.
2. In the application by a contracting party of this Agreement in relation to a person, any term not defined in this Article shall, unless the context otherwise requires, have the meaning assigned to it in the legislation of either contracting party.

Article 2**Legislative Scope**

1. The legislation within the scope of this agreement is:
- (a) in relation to New Zealand: the Social Security Act 1964 and the Social Welfare (Transitional Provisions) Act 1990 as amended at the date of signature of this Agreement and any legislation that subsequently amends, supplements or replaces those Acts, in so far as those Acts and that legislation provide for and for all matters in relation to the following benefits:
 - (i) national superannuation;
 - (ii) invalids benefits;
 - (iii) widows benefits;
 - (iv) domestic purposes benefits paid to widowers;
 - (v) veterans pension;
 - (vi) orphans benefit; and
 - (vii) funeral grants
 - (b) in relation to Greece:
 - (i) the general legislation on Social Security for employed and equated persons, the legislation on the special schemes of Social Security for certain categories of employed and equated persons, for independently gainfully occupied or self employed persons, for farmers (growers) and any legislation that subsequently amends, supplements or replaces this legislation.
 - (ii) for the purposes of the application of Article 17 of this Agreement the special Social Security schemes covering seafarers and Government employees.
2. Notwithstanding the provisions of paragraph 1, the legislation within the scope of this Agreement shall not include any laws made, whether before or after the date of signature of this Agreement, for the purposes of giving effect to any bilateral Agreement on social security entered

SCHEDULE—continued

into by either contracting party, but may not prevent either party from taking into account under its legislation the provisions for any other Agreement which that party has concluded with a third state.

3. The contracting parties shall notify each other of legislation that amends, supplements or replaces the laws within the scope of this Agreement promptly after the such mentioned laws are enacted.

Article 3**Personal Scope**

Unless otherwise provided this Agreement shall apply to all persons who are or have been subject to the laws of one or both of the contracting parties as well as, in the case of Greece to people deriving their rights from such persons.

Article 4**Equality of Treatment**

1. In any case in which entitlement to a benefit under the legislation of New Zealand and of Greece depends, in whole or in part, on the nationality of a contracting party, a person who is a national of the other contracting party shall, for the purposes of a claim for that benefit, be deemed to be a national of the first mentioned contracting party.
2. The persons to whom this Agreement applies shall be treated equally by each of the contracting parties in regard to rights and obligations which arise by virtue of this Agreement in relation to each contracting party.

Article 5**Secondment**

1. Where a person, who is subject to the Greek legislation in the service of an employer having its place of business in Greece is sent from that employer to work in New Zealand for a period not expected to exceed 5 years, the person may remain subject to the Greek legislation as if he were employed in Greece.
2. If the actual duration of the work of the person described in paragraph 1 exceeds the expected period of work owing to unforeseeable circumstances or special reasons that person may remain subject to the legislation of Greece as if he were employed in Greece. The extension may be recognised by the competent institution of Greece.
3. For the purposes of Greek legislation, a person who was subject to that legislation in accordance with the provisions of this Article shall be considered to be resident in the territory of Greece.

SCHEDULE—*continued***PART II****PROVISIONS RELATING TO BENEFITS****A. PROVISIONS RELATING TO NEW ZEALAND BENEFITS****Article 6****Payment of New Zealand Benefits in Greece**

New Zealand benefits payable in Greece shall be paid to persons whose intention is to reside in Greece for longer than the period of temporary absence provided for in the social security laws of New Zealand.

Article 7**Totalisation of Periods of Residence and or Insurance**

1. Where a person who is ordinarily resident in New Zealand cannot claim the periods of residence in New Zealand under New Zealand legislation in order to be entitled to a New Zealand benefit within the scope of this Agreement, the New Zealand institution will take into account the periods of insurance and or residence in Greece as if they were periods of residence in New Zealand.
2. In determining entitlement to a New Zealand widows benefit or domestic purposes benefit for widowers in respect of a person ordinarily resident in New Zealand any dependent child of that person born in Greece shall be deemed to have been born in New Zealand.
3. A person who is not resident in New Zealand but living in Greece shall not be entitled to an orphan's benefit unless the child in respect of whom the benefit is paid was born in New Zealand or has been resident and present in New Zealand at any time for a continuous period of 12 months.
4. In determining entitlement to a New Zealand benefit within the scope of this Agreement in respect of a person who has been ordinarily resident in New Zealand for 12 months prior to the date of application and who is ordinarily resident in Greece, periods of Greek insurance and or residence shall be totalised to enable the person to meet the minimum period of New Zealand residence required under New Zealand legislation.

Article 8**Payment of New Zealand National Superannuation and Veteran's Pension Outside New Zealand**

1. Subject to paragraphs 3 and 4 a person receiving or qualified to receive New Zealand national superannuation or veteran's pension shall be entitled to receive the payment of that benefit while residing in Greece.
2. Subject to paragraphs 3 and 4 a person having reached the age of entitlement to national superannuation or veteran's pension who is residing in Greece and who has had previous residence in New Zealand of not less than 1 year and after the age of 20, shall be entitled to receive payment of those benefits.

SCHEDULE—*continued*

3. The amount of the benefit referred to in paragraphs 1 and 2 shall be calculated in accordance with the following formula:

$$\frac{\text{number of whole years residence in New Zealand}}{40 \text{ years}} \times \text{maximum benefit rate}$$

subject to the following provisions:

- (i) all periods of residence in New Zealand since age 20 shall be aggregated;
 - (ii) for periods of residence in New Zealand in excess of 40 years payment shall be made at a rate of 100% of national superannuation or veteran's pension.
4. Persons residing in Greece on or before the effective date of this Agreement who are receiving payment of national superannuation or veteran's pension by virtue of section 17 of the Social Welfare (Transitional Provisions) Act 1990 shall be entitled, if they so elect to continue to receive payment under this provision.
5. The amount of the benefit referred to in paragraphs 1 and 2 shall be payable without regard to old age benefit payable under the Greek legislation.

Article 9**Payment of Widows Benefit, Domestic Purposes Benefit for Widowers and Invalids Benefit Outside New Zealand**

1. A person receiving or qualified to receive a New Zealand widows benefit, a domestic purposes benefit in the case of a widower or an invalids benefit shall be entitled to receive payment of that benefit while residing in Greece.
2. The amount of the benefit referred to in paragraph 1 shall be calculated in accordance with the following formula:

$$\frac{\text{number of whole years residence in New Zealand}}{25 \text{ years}} \times \text{maximum benefit rate}$$

subject to the following provisions:

- (i) all periods of residence in New Zealand since age 20 shall be aggregated; and
- (ii) for periods of residence in New Zealand in excess of 25 years payment shall be made at a rate of 100% of the rate specified in the appropriate Schedule to the Social Security Act.

Article 10**Payment of Orphans Benefit Outside New Zealand**

1. A person receiving or qualified to receive a New Zealand orphan's benefit shall be entitled to receive that benefit while residing in Greece.
2. The rate of orphan's benefit payable in accordance with paragraph 1 of this Article shall be the appropriate rate specified in the Fourth Schedule to the Social Security Act 1964.

SCHEDULE—*continued***Article 11****Payment of Funeral Grants Outside New Zealand**

1. Funeral grants shall be payable to persons resident in Greece, subject to New Zealand legislation provided that:
 - (a) the surviving spouse is in receipt of a benefit within the scope of this Agreement;
 - (b) in the case of a funeral grant for a child the child is a dependent child of a person receiving a benefit within the scope of this Agreement;
 - (c) the deceased person or child had, at any time prior to death been ordinarily resident in New Zealand for a continuous period of not less than 1 year.
2. The amount of any analogous benefit payable under the legislation of Greece shall be deducted from any funeral grant that is payable by virtue of this Agreement.

Article 12**Payment of Supplementary Benefits In and Outside New Zealand**

1. Where a benefit according to this Agreement is being paid by the competent institution of New Zealand while the beneficiary is residing in New Zealand, there shall also be payable by that institution the living alone payment and any supplementary benefit or allowance that is provided for under the legislation of New Zealand.
2. Where a New Zealand benefit is payable in Greece by virtue of this Agreement the amount of benefit shall not include the living alone payment and any additional supplementary benefit or allowance payable under the legislation of New Zealand.

Article 13**Residence or Presence in a Third State**

1. A person who is receiving a New Zealand benefit in Greece by virtue of this Agreement shall continue to receive such New Zealand benefit if he or she transfers his or her residence to a third State, provided that New Zealand has a Social Security Reciprocal Agreement allowing for portability of payment with that third State.
2. A person who is ordinarily resident in New Zealand and is entitled to receive a benefit solely through the application of the totalising provisions of Article 7 and either:
 - (a) departs New Zealand with the intention of residing in a third State for a period which exceeds 26 weeks, or
 - (b) resides in a third State for a period which exceeds 26 weeks;shall not be entitled to receive national superannuation or a veteran's pension while outside New Zealand or Greece, unless he or she is

SCHEDULE—*continued*

entitled to receive that benefit under a social security agreement which New Zealand has entered into with that third State.

B. PROVISIONS RELATING TO GREEK BENEFITS**Article 14****Old Age, Survivors and Invalidity Benefits**

1. If a person is entitled to a Greek benefit without recourse to the provisions of paragraphs 2 and 3 of this Article the amount of the benefit is determined according to the Greek legislation on the basis of insurance completed under this legislation.
2. Where no entitlement to a Greek benefit exists on the basis of Greek insurance periods, the periods of residence completed after the age of 20 under New Zealand legislation shall be totalised for the acquisition of the right to old age, survivors and invalidity benefit under the Greek legislation provided that these periods do not overlap.
3. Where periods of residence completed under New Zealand legislation are taken into account for the acquisition of the right according to the previous paragraph, the benefit payable under the Greek legislation is determined as follows:
 - (a) the competent institution first calculates the amount of the benefit which would have been awarded to the person concerned if the periods completed under New Zealand legislation and totalised according to the previous paragraph had been completed under its own legislation for the acquisition of the right to old age, invalidity and survivors benefits;
 - (b) the competent institution in determining the amount of the benefit takes into consideration the salary (earnings), income or contributions which have been paid during the periods completed under the Greek legislation;
 - (c) where the amount determined as above is less than the minimum benefit provided by the Greek legislation then the minimum amount shall substitute the amount determined as above.
4. On the basis of the amount calculated according to the previous paragraph the competent institution determines the amount of the partial benefit payable by it, according to the ratio between the length of the periods of insurance completed under its own legislation and the total duration of the periods of insurance and residence which have been taken into account.
5. If the total length of the periods of insurance which shall be taken into account in accordance with Greek legislation for the calculation of the benefit does not attain 300 days and provided that no entitlement to a benefit according to the Greek legislation exists without applying the previous paragraphs no benefit shall be paid out according to this legislation.
6. Only Greek insurance periods are taken into account when establishing the kind of benefit and the competent institution.
7. For the purposes of this Article

SCHEDULE—*continued*

- (a) one (1) month of residence in New Zealand is equivalent to 25 days of insurance in Greece and
- (b) one (1) year of residence in New Zealand is equivalent to 300 days of insurance in Greece.

Article 15**Lump Sum Benefit after Death (Funeral Expenses)**

1. Lump sum benefit after death (funeral expenses) shall be payable, subject to the Greek social security laws, to the person who paid for the funeral costs and who is resident in New Zealand.
2. The amount of any analogous assistance payable under the social security laws of New Zealand shall be deducted from the amount of the lump sum payment payable by Greece.

Article 16**Payment of Minimum Greek Benefit**

1. Where the beneficiary resides in Greece the total:
 - (a) of the pensions and other benefits provided for by Articles 8, 9 and 10 of the Agreement; and
 - (b) of the pensions and the other benefits provided for by Article 14 paragraph 4cannot be less than the minimum benefit provided for by the Greek legislation. Where this total arrives at an amount which is less than the minimum benefit the competent Greek institution shall pay the difference.
2. Where the New Zealand benefit is reduced on account of income the Greek institution shall pay the difference between the maximum unabated rate of benefit and the minimum benefit provided for by Greek legislation.

Article 17**Payment of Benefits or Pensions Outside of Greece**

Pensions and other benefits which are provided for by this Agreement, may not be reduced, modified, suspended or withdrawn on account of the recipient residing in the territory of New Zealand or in a third state with which Greece has a bilateral Agreement.

PART III**MISCELLANEOUS PROVISIONS****Article 18****Lodgement of Claims**

1. An application duly lodged for a benefit under the legislation of one of the contracting parties shall be regarded as an application duly lodged under the legislation of the other contracting party.
2. The date of receipt of any application or other document submitted to one competent authority or competent institution shall be regarded as

SCHEDULE—continued

the date of receipt of such application or other document by the other competent authority or competent institution. The application or document shall be transmitted without delay to the institution of the other contracting party.

Article 19**Determination and Commencement of Claims**

1. The commencement date for payment of a benefit payable by virtue of the Agreement shall be determined in accordance with the social security laws of the contracting party concerned but in no case shall commence earlier than the date on which this Agreement enters into force.
2. Any period of insurance, residence or remunerative employment completed before the date of entry into force of this Agreement shall be taken into account for the purpose of determining the right to a benefit under this Agreement.

Article 20**Appeals**

1. Any person affected by a decision of the competent authority or competent institution of a contracting party, in relation to a matter arising by virtue of this Agreement, shall have the same rights to a review by or appeal to, administrative or judicial bodies of that contracting party, as provided for under the domestic laws of the contracting party.
2. Documents relating to reviews or appeals that may be made to administrative or judicial bodies established by the legislation of one of the contracting parties may be lodged in the territory of the other contracting party, and any documents duly lodged in that manner shall be regarded as duly lodged for the purposes of those laws.
3. The date on which a document is duly lodged in the territory of one of the contracting parties in accordance with paragraph 2 shall determine whether that document is lodged within any time limit specified by the laws or administrative practices of the other contracting party which govern the appeal concerned.

Article 21**Recovery of Overpayments**

1. Where:
 - (a) an amount paid by one of the parties to a person in respect of a benefit exceeded the amount if any, that was properly payable, whether by virtue of this Agreement or otherwise, in respect of that benefit; and
 - (b) a benefit of analogous type is payable by the other contracting party to that person, whether by virtue of this Agreement or otherwise, the competent institution of that other contracting party shall, if requested by the other institution to do so, and in accordance with this

SCHEDULE—*continued*

Article, deduct the amount equivalent to the excess payment referred to in subparagraph (a) from the amount due in respect of the last mentioned benefit.

2. The amount of an excess payment referred to in paragraph 1 shall be the amount determined by the competent institution of the contracting party by whom the excess payment was made.
3. The rate of deductions made in accordance with paragraph 1 from amounts due in respect of a benefit, and any incidental or related matters, shall be determined by the competent institution of the contracting party by whom the benefit is payable, in accordance with the legislation or practice of that contracting party.
4. Amounts deducted by the competent institution of one of the contracting parties in accordance with paragraph 1, and any amounts received by that institution pursuant to arrangements referred to in paragraph 3, shall be remitted to the other competent institution as agreed between the competent institutions or in administrative arrangements made pursuant to Article 23.

Article 22**Exchange of Information and Mutual Assistance**

1. The competent authorities shall communicate to each other any information necessary for the application of this Agreement or of the respective legislation of the contracting parties concerning all matters arising under this Agreement or under this legislation.
2. The competent institutions shall:
 - (a) furnish assistance to one another with regard to the determination or payment of any benefit or pension under this Agreement or any other entitlement under the respective legislation as if the matter involved the application of their own legislation;
 - (b) at the request of one to the other, assist each other in relation to the implementation of Agreements on social security entered into by either of the two parties with third states, to the extent and in the circumstances specified in administrative arrangements made in accordance with Article 23.
3. The assistance referred to in paragraph 2 shall be provided free of charge.
4. Any information transmitted in accordance with this Agreement to an institution shall be protected in the same manner as information obtained under the legislation of the receiving party.
5. In no case shall the provisions of paragraphs 2 and 4 be construed so as to impose on the competent institution of a contracting party the obligation to:
 - (a) carry out administrative measures at variance with the laws or the administrative practices of that or the other party; or
 - (b) supply particulars which are not obtainable under the laws or in the normal course of that or the other party.

SCHEDULE—*continued***Article 23****Administrative Arrangements**

1. The competent authorities of the parties shall establish by means of an administrative arrangement the measures necessary for the implementation of this Agreement.
2. Liaison bodies shall be designated to facilitate the implementation of this Agreement.

Article 24**Language of Communication**

The competent authorities and competent institutions may correspond directly with the other and with any person wherever that person may reside whenever it is necessary for the application of this Agreement. The correspondence may be in the New Zealand or Greek languages.

Article 25**Currency**

1. Payments under this Agreement may be validly made in the currency of the contracting party making the payment.
2. Money transfers effected under this Agreement shall be made in accordance with any relevant agreements in force between contracting parties at the time of transfer.
3. In case provisions designed to restrict the exchange or exportation of currencies are introduced by either contracting party, the Governments of both contracting parties shall immediately decide on the measures necessary to ensure the transfer of sums owed by either contracting party or competent institution under this Agreement.

Article 26**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 27**Review of Agreement**

The contracting parties may agree at any time to review any of the provisions of this Agreement and, in any case, shall, within the period of 5 years commencing on the date of signature of this Agreement appoint a committee of experts to review and report to the competent authorities on the operation and effectiveness of the Agreement.

SCHEDULE—*continued***Article 28****Entry into Force and Termination**

1. This Agreement shall enter into force on the date on which the Parties exchange notes through the diplomatic channel notifying each other that the last of such things has been done as is necessary to give this Agreement the force of law in New Zealand and in Greece and there upon this Agreement shall have effect on and from the date specified for that purpose in that exchange of diplomatic notes.
2. Subject to paragraph 3, this Agreement shall remain in force until the expiration of 12 months from the date on which either contracting party receives from the other written notice through the diplomatic channel of the intention of either party to terminate the 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 by virtue of this Agreement;
 - (a) at the date of termination, are in receipt of benefits or pensions; or
 - (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive those benefits or pensions.

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

DONE in two copies in the English and Greek languages in Athens, this 24th day of June 1993.

Peter Bennett

FOR THE GOVERNMENT OF
NEW ZEALAND

Demetrios Sioufas

FOR THE GOVERNMENT OF
THE HELLENIC REPUBLIC

DIANE WILDERSPIN,
Acting for Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

This order gives effect to the agreement for reciprocity on social welfare made between the Governments of New Zealand and the Hellenic Republic. The agreement is set out in the Schedule to the order.

The agreement is to come into force on the first day of the second month following the date on which the last of the parties to the agreement notifies the other party of the completion of its statutory and constitutional procedures required for the entry into force of the agreement.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 22 October 1993.

This order is administered in the Department of Social Welfare.