

National Insurance and Social Security

Cap. 47.

**NATIONAL INSURANCE AND SOCIAL SECURITY
(UNDERSTANDING ON SOCIAL SECURITY
BETWEEN BARBADOS AND QUÉBEC)
ORDER, 1985**

S.I.
1986/5.

Authority: This order was made on 31st December, 1985 by the Governor-General under section 48 of the *National Insurance and Social Security Act*.

Commencement: 1st January, 1986.

1. This Order may be cited as the *National Insurance and Social Security (Understanding on Social Security Between Barbados and Québec) Order, 1985*.

2. In this order "Understanding" means the Understanding on social security between Barbados and Québec signed at Montreal on the 27th day of November 1985, the text of which is set out in the Schedule.

Schedule.

3. The *National Insurance and Social Security Act* and the *National Insurance and Social Security Regulations* made under that Act respecting

- (a) old age contributory pension;
- (b) invalidity pension;
- (c) survivors' pension; and
- (d) funeral grant;

are to the extent to which they are affected by the Understanding, deemed to be modified and adapted to give effect to the Understanding.

SCHEDULE

(Paragraph 2)

UNDERSTANDING ON SOCIAL SECURITY

BETWEEN

THE GOVERNMENT OF BARBADOS

AND

THE GOVERNMENT OF QUÉBEC

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*(Understanding on Social Security Between Barbados
and Québec) Order, 1985*

The Government of Barbados

and

The Government of Québec

Resolved to cooperate in the social field have decided to conclude an
Understanding on social security.

To this end, they have agreed as follows:

PART I

GENERAL PROVISIONS

ARTICLE 1

Definitions

1. For the purposes of this Understanding, and unless a different meaning is indicated by the context, the following definitions shall apply:

(a) "Competent Authority":

- as regards Québec, the Minister responsible for the application of the legislation specified in Article 2;
- as regards Barbados, the Minister responsible for National Insurance and Social Security;

(b) "Competent institution":

- as regards Québec, the department or agency responsible for the administration of the legislation specified in Article 2;
- as regards Barbados, the department or authority charged with implementation of the legislation specified in Article 2;

(c) "Creditable period":

- as regards Québec, any year for which contributions have been paid or for which a disability pension has been paid under the Québec legislation;
- as regards Barbados, any year for which at least thirteen contributions have been paid or credited under the legislation of Barbados;

(d) "National":

- as regards Québec, a Canadian citizen who is a resident of Québec;
- as regards Barbados, a citizen of Barbados;

(e) "Benefit":

- as regards Québec, any pension or benefit payable under the legislation of Québec;
- as regards Barbados, old age contributory pension, invalidity pension, survivors' pension and funeral grant for which provision is made in the legislation of Barbados;

including any supplements or increases applicable to such benefits.

2. Any term not defined in paragraph 1 shall be understood as having the meaning given to it in the legislation in question.

ARTICLE 2

Legislation to which this Understanding applies

This Understanding applies to the following legislation:

(a) as regards Québec:

- the Act respecting the Québec Pension Plan;

(b) as regards Barbados:

- the National Insurance and Social Security Act and the subsidiary legislation made thereunder, as they relate to:
 - (i) old age contributory pension,
 - (ii) invalidity pension,
 - (iii) survivors' pension, and
 - (iv) funeral grant.

ARTICLE 3

Amendments to the Legislation

1. This Understanding applies equally to any legislation which modifies, adds to, consolidates or replaces the legislation specified in Article 2.
2. However, this Understanding does not apply to any legislation which:
 - (a) covers a new field of social security, unless the Understanding is modified to that effect;
 - (b) is enacted by one Party to extend the existing legislation to new categories of beneficiaries if that Party notifies the other Party within three months of the date of its official publication of its non application.

ARTICLE 4

Scope

Unless otherwise provided, this Understanding shall apply to:

- (a) Nationals of each Party;
- (b) stateless persons, within the meaning of Article 1 of the Convention Relating to the Status of Stateless Persons, of September 28, 1954;
- (c) other persons who are or have been subject to the legislation of a Party;
- (d) persons deriving rights from a person designated in paragraphs a to c.

ARTICLE 5

Equality of Treatment

1. Unless otherwise provided in this Understanding, the persons designated in Article 4 shall, in the application of the legislation of a Party, receive equal treatment with the Nationals of that Party.
2. Unless otherwise provided in this Understanding, any benefit acquired under the legislation of one Party, as well as benefits acquired under this Understanding, may not suffer any reduction, modification, suspension, suppression or confiscation solely as a result of the beneficiary residing in the territory of the other Party, and such benefit is payable in the territory of the other Party.
3. Any benefit which, under this Understanding, is payable by one Party in the territory of the other Party, is also payable in the territory of a third party.

ARTICLE 6

Provisions on Coverage

1. Subject to Articles 7, 8, 9, 10 and to paragraph 2 of this Article, employed and self-employed persons shall only be subject to the legislation of the Party in whose territory they are employed.
2. Self-employed persons who ordinarily reside in the territory of one Party and who work for their own account in the territory of the other Party or in the territories of both Parties shall, with respect to such work, be subject only to the legislation of the first Party.

ARTICLE 7

Assignment

1. A person employed within the territory of one Party and temporarily assigned by that person's employer to the territory of the other Party in order to perform work for that employer shall, with respect to such employment, be subject only to the legislation of the first Party for a period of not more than twenty-four months.
2. However, if the time required for completion of the work exceeds twenty-four months, the legislation of the first Party may continue to apply until the work is completed, provided that the competent institutions of both Parties give their approval.

ARTICLE 8

Crew Members

A person who, otherwise, would be subject to the legislation of both Parties in respect of employment as a member of the crew of a ship or aircraft shall, in respect of that employment, be subject only to the legislation of Québec in any other case.

ARTICLE 9

Persons in Government Service

A person employed by one Party in the territory of the other Party shall, in respect of that employment, be subject to the legislation of the former Party unless that person requests to be subject to the legislation of the latter Party and obtains the approval of the first Party.

ARTICLE 10

Modifications to Provisions on Coverage

The competent authorities or institutions of the two Parties may by common agreement modify the application of Articles 6, 7, 8 and 9 of this Understanding with respect to any persons or categories of persons.

PART II

PROVISIONS ON BENEFITS

ARTICLE 11

Benefits under the Québec Legislation

1. A person who has been subject to the legislation of both Parties shall be entitled, as shall the dependants, survivors and other rightful claimants of that person, to a benefit under the Québec legislation if that person satisfies the requirements for entitlement to a benefit under that legislation. The competent institution of Québec shall determine the amount of benefit in accordance with the provisions of its legislation.
2. If the person is not entitled to a benefit under the Québec legislation, the competent institution of Québec shall proceed as follows:
 - (a) any year included in the creditable periods under the legislation of Barbados shall be recognized as a year of contribution provided it is also included in the contributory period within the meaning of the Québec legislation;
 - (b) years credited under sub-paragraph (a) shall be totalized with years included in the creditable periods under the Québec legislation provided they do not overlap.
3. When the totalization prescribed in paragraph 2 entitles a person to a benefit, the competent institution of Québec shall determine the amount payable as follows:
 - (a) that part of the benefit which is related to earnings is calculated according to the provisions of Québec legislation.
 - (b) the flat rate portion of the benefit is adjusted proportionately to the periods for which contributions were paid under Québec legislation relative to the contributory period according to that legislation.

ARTICLE 12

Benefits under the Legislation of Barbados

1. A person who has been subject to the legislation of both Parties shall be entitled, as shall the dependants, survivors and other rightful claimants of

that person, to a benefit under the legislation of Barbados if that person satisfies the requirements for entitlement to a benefit under that legislation. The competent institution of Barbados shall determine the amount of benefit in accordance with the provisions of its legislation.

2. If a person is not entitled to an invalidity pension or old age contributory pension solely on the basis of creditable periods under the legislation of Barbados, but would satisfy the minimum contribution conditions for a pension through totalizing of creditable periods, the competent institution of Barbados shall count creditable periods under the legislation of Québec only to the extent necessary to establish entitlement to the pension.
3. When totalization is needed for entitlement to benefits, the competent institution of Barbados shall proceed on the basis that any year regarded as a creditable period under the Québec legislation shall be recognized as fifty-two contributions paid under the legislation of Barbados for that year, provided that such contributions do not duplicate contributions paid or payable under the Barbados legislation for that year.
4. The average annual insurable earnings used in computing such pension shall be computed exclusively on the basis of the insurable earnings on which contributions under the legislation of Barbados were based.
5. The amount of pension payable in the event of totalizing of creditable periods shall be determined by reference to the ratio that the number of contributions under the legislation of Barbados bears to the minimum number of contributions required under that legislation for entitlement to the relevant pension.
6. Where, under the legislation of Barbados, a grant other than a funeral grant was paid in respect of an event which happened before the date of entry into force of this Understanding and where subsequent entitlement to a corresponding pension is established through totalization under this Article, the competent institution of Barbados shall deduct from any benefit payable in the form of a pension any amount previously paid in the form of a grant.

ARTICLE 13

Common Provisions

1. If a person is not entitled to a benefit after the totalization provided in Article 11 or in Article 12, the creditable periods under the legislation of a third party shall be taken into consideration, according to the conditions provided in this Part, if the third party has entered into a social security Understanding or Agreement with each of the Parties, which contains provisions permitting the totalization of creditable periods.
2. When it is impossible to determine when creditable periods under the legislation of one Party occurred, they are presumed not to overlap with creditable periods under other legislation.

PART III

MISCELLANEOUS PROVISIONS

ARTICLE 14

Administrative Arrangement

1. The conditions for the application of the Understanding shall be set out in an Administrative Arrangement, to be agreed to by both Parties.
2. The liaison agencies of both Parties shall be designated in the Administrative Arrangement.

ARTICLE 15

Mutual Assistance

The competent authorities and institutions:

- (a) shall communicate to each other any information required with regard to the application of this Understanding;
- (b) shall assist each other at no cost with regard to any matter concerning the application of this Understanding;

- (c) shall inform each other of measures adopted for the application of this Understanding or of modifications to their respective legislation to the extent that such modifications affect the application of this Understanding;
- (d) shall notify each other of the difficulties encountered in the interpretation or application of this Understanding and agree to resolve them as far as possible according to the spirit and fundamental principles of this Understanding.

ARTICLE 16

Use of Information

1. Unless disclosure is required under the laws of a Party, any information concerning a person communicated by the competent institution of one Party to the competent institution of the other Party is confidential and shall be used exclusively for the application of this Understanding and the legislation to which it applies.
2. Access to files containing information shall be subject to the legislation of the Party where the files are located.
3. For the purposes of paragraphs 1 and 2, the word "information" shall mean any item containing the name of a person, or any item from which the identity of a person could be easily established.

ARTICLE 17

Method of Payment

1. All benefits shall be payable directly to the beneficiary without any deduction being made for administrative costs which may be incurred in paying the benefit.
2. Benefits under this Understanding shall be paid:
 - (a) by the competent institution of Québec, in a currency freely convertible in Québec;
 - (b) by the competent institution of Barbados:
 - (i) in respect of a beneficiary resident in Barbados, in the currency of Barbados;

- (ii) in respect of a beneficiary resident in Québec, in a currency freely convertible in Québec;
 - (iii) in respect of a beneficiary resident in a third State, in the currency of that State or in any currency freely convertible in that State.
3. In the application of sub-paragraphs (b)(ii) and (iii) of paragraph 2, the conversion rate shall be the rate of exchange in effect on the day when the payment is made.

ARTICLE 18

Certification Fees with respect to a Document

1. Any reduction of or exemption from fees, taxes or other charges provided for in the legislation of one Party with respect to the issuing of a certificate or document to be produced for the application of that legislation shall be extended to certificates and documents to be produced for the application of the legislation of the other Party.
2. Any act or document of an official nature required to be presented for the application of this Understanding shall be exempt from authentication by diplomatic or consular authorities or similar formalities.

ARTICLE 19

Presentation of Claim, Notice or Appeal

1. A claim, notice or appeal which, under the legislation of one Party, should have been presented within a prescribed time to the competent authority or institution of that Party but which was presented within the same time to the competent authority or institution of the other Party, shall be treated as if it had been presented to the institution of the first Party. In such a case, the institution of the second Party shall forward the claim, notice or appeal as soon as possible to the institution of the first Party.
2. A claim for a benefit payable under the legislation of one Party shall be deemed to be a claim for the corresponding benefit payable under the legislation of the other Party, unless the claimant expressly requests the claim to the benefit of the other Party be deferred.

3. However, when the date of receipt of the claim is prior to the date the Understanding comes into force, then the latter date shall be used as the date of receipt of the claim.

ARTICLE 20

Medical Evidence

1. The medical evidence required under the legislation of one Party may be produced, at the request of the competent institution of that Party, by the competent institution of the other Party under the conditions provided in the Administrative Arrangement mentioned in Article 14.
2. The medical evidence produced under the conditions provided in paragraph 1 cannot be considered invalid on the sole basis of the fact that it has been produced in the territory of the other Party.

PART IV

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 21

Transitional Provisions

1. This Understanding does not confer any right to the payment of benefits for a period before the date of its coming into force.
2. Creditable periods prior to the date of the coming into force of this Understanding shall be taken into consideration for the purpose of determining entitlement to a benefit under the Understanding other than a lump sum payment under the legislation of Barbados.
3. Subject to the provisions of paragraph 1, a benefit, other than a funeral grant and a death benefit, shall be payable under this Understanding in respect of events prior to the date of the coming into force of this Understanding.
4. As regards a person who is on assignment on the date of the coming into force of the Understanding, the 24-month period mentioned in paragraph 1 of Article 7 shall begin on that date.

THE LAWS OF BARBADOS

ARTICLE 22

Communication

1. The competent authorities and institutions of both Parties may communicate with each other in their official language.
2. A decision of a tribunal or a notice from a competent institution may be addressed directly to a person residing in the territory of the other Party.

ARTICLE 23

Cooperation

The Parties agree to meet when necessary, in order to:

- (a) resolve problems which their respective agencies have encountered in the application of the Understanding;
- (b) explore the possibility of cooperating in other areas of social security and in other areas of common interest.

ARTICLE 24

Coming into Force

1. Each Party shall notify the other Party when the internal procedures required for the coming into force of the Understanding have been completed.
2. The Understanding is entered into for an indefinite duration beginning with the date of its coming into force, which shall be fixed by an exchange of letters between the Parties. It may be denounced by either Party notifying the other Party in writing. The Understanding shall expire on the 31st day of December which follows the date of notification by at least twelve months.
3. If this Understanding is terminated by denunciation, all rights acquired by a person under its provisions shall remain in effect, and negotiations shall be undertaken in order to settle any rights in the process of being acquired under the Understanding.

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and Québec) Order, 1985*

Done at Montreal, on the 27th day of November 1985, in duplicate in
the English and French languages, both texts being equally authentic.

For the Government of Barbados

O'BRIEN TROTMAN

For the Government of Québec

ELIE FALLU

THE LAWS OF BARBADOS

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