

Reprint  
as at 26 November 2018



## **Social Welfare (Reciprocity with Denmark) Order 1997** (SR 1997/135)

Michael Hardie Boys, Governor-General

### **Order in Council**

At Wellington this 14th day of July 1997

Present:

His Excellency the Governor-General in Council

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

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#### **Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This order is administered by the Ministry of Social Development.**

## Order

### 1 Title and commencement

- (1) This order may be cited as the Social Welfare (Reciprocity with Denmark) Order 1997.
- (2) This order comes into force on 1 October 1997.

### 2 Interpretation

In this order, unless the context otherwise requires, **agreement** means the agreement on social security between the Kingdom of Denmark and the Government of New Zealand signed at Wellington on 6 May 1997, as set out in the Schedule.

### 3 Adoption of agreement and modification of Acts

- (1) The provisions contained in the agreement have full force and effect so far as they relate to New Zealand.
- (2) The provisions of—
  - (a) the Social Welfare (Transitional Provisions) Act 1990; and
  - (aa) Part 6 of the Veterans' Support Act 2014; and
  - (b) the Social Security Act 1964; and
  - (c) the regulations and orders in force under those Acts—have effect subject to such modifications as may be required for the purpose of giving effect to the agreement.
- (3) A reference (however expressed) in either of the following to a widow's benefit, or a domestic purposes benefit paid to a widower, under the Social Security Act 1964 in relation to New Zealand must on and after 15 July 2013 (unless the savings provisions in clause 3 of Schedule 32 of the Social Security Act 1964 apply) be read as a reference to sole parent support under the Social Security Act 1964 for a woman or, as the case requires, a man, whose spouse or partner has died:
  - (a) a provision of the agreement set out in the Schedule:
  - (b) a provision of a document related to the operation on or after 15 July 2013 of this order.
- (4) A reference (however expressed) in either of the following to an invalid's benefit under the Social Security Act 1964 in relation to New Zealand must on and after 15 July 2013 be read as a reference to a supported living payment on the ground of sickness, injury, disability, or total blindness under the Social Security Act 1964:
  - (a) a provision of the agreement set out in the Schedule:

- (b) a provision of a document related to the operation on or after 15 July 2013 of this order.
- (5) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after 26 November 2018 be read as a reference to the assistance under the Social Security Act 2018 that corresponds to the former assistance (*see* clause 4(3) of Schedule 1 of that Act):
  - (a) a provision of the agreement set out in the Schedule:
  - (b) a provision of a document related to the operation on or after 26 November 2018 of this order.

Clause 3(2)(aa): inserted, on 15 April 2003, by section 12(2) of the War Pensions Amendment Act 2003 (2003 No 18).

Clause 3(2)(aa): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Clause 3(3): inserted, on 15 July 2013, by section 86 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13).

Clause 3(4): inserted, on 15 July 2013, by section 97 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13).

Clause 3(5): inserted, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

## Schedule

### Agreement on social security between the Kingdom of Denmark and the Government of New Zealand

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The Government of the Kingdom of Denmark and the Government of New Zealand (*hereinafter referred to as the 'Contracting Parties'*),

Resolved to co-operate in the field of social security,

Have decided to conclude an agreement for this purpose, and

Have agreed as follows:

#### Part I

#### General provisions

#### Article 1—Definitions

1. For the purpose of this Agreement:
  - (a) “**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 the Kingdom of Denmark, the Minister of Social Affairs;

- (b) “**competent institution**” means an institution responsible for providing pensions or benefits under the applicable legislation;
- (c) “**contracting party**” means according to the context, the Government of New Zealand or the Government of the Kingdom of Denmark;
- (d) “**legislation**” means according to the context, the current laws, ordinances and administrative regulations specified in Article 2;
- (e) “**member of the family**” means a member of the family according to the legislation of the Contracting Party in whose territory the competent institution is based, in reference to whom the benefits are granted;
- (f) “**month**” means a calendar month except where days are aggregated in which case a month means 30 days;
- (g) “**national**” means in relation to New Zealand to any person possessing New Zealand citizenship and in relation to the Kingdom of Denmark a person with Danish citizenship;
- (h) “**pension or benefit**” means any pension or benefit, including all elements thereof under the applicable legislation and supplementary allowances unless otherwise provided by this Agreement and in the case of New Zealand “benefit” includes Veteran’s pension;
- (i) “**period of employment**” means a period or periods defined or recognised as such by the legislation under which they were completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of employment;
- (j) “**period of insurance**” means in relation to Denmark, contribution periods as defined or recognised as periods of insurance by the legislation under which they were completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of insurance;
- (k) “**period of residence**” means periods defined or recognised as periods of residence by the legislation under which they were completed or are considered to be completed;
- (l) “**refugee**” shall have the meaning assigned to it in Article 1 of the Convention on the Status of Refugees, signed at Geneva on 28 July 1951 and in the Protocol of 31 January 1967 to that Convention;
- (m) “**residence**” means ordinary residence which is lawfully established;
- (n) “**self-employed person**” means in relation to the Kingdom of Denmark, any person who is entitled to benefits in pursuance of the legislation on daily cash benefits in the event of sickness or maternity on the basis of earned income other than wages or salary;
- (o) “**stateless person**” shall have the meaning assigned to it in Article 1 of the Convention on the Status of Stateless Persons, signed in New York on 28 September 1954;

- (p) “**stay**” means temporary sojourn;
  - (q) “**territory**” means in relation to New Zealand, New Zealand only and does not include the Cook Islands, Niue and Tokelau and in relation to the Kingdom of Denmark, its national territory with the exception of Greenland and the Faroe Islands; and
  - (r) “**worker**” means in relation to the Kingdom of Denmark,
    - (i) in respect of any period prior to the date of September 1, 1977, any person who from the fact of pursuing an activity in the service of an employer was subject to the legislation on accidents at work and occupational diseases;
    - (ii) in respect of any period commencing on the date of September 1, 1977 or a later date, any person who is subject to the legislation on the Labour Market Supplementary Pension Scheme (ATP).
2. Other terms, words and expressions which are used in this Agreement have the meaning respectively assigned to them in the legislation concerned.

#### Article 2—Matters covered

1. This Agreement shall apply to the following legislation:
- (a) in relation to New Zealand, the Social Security Act 1964 and the Social Welfare (Transitional Provisions) Act 1990 as far as they apply to the following benefits:
    - (i) New Zealand superannuation;
    - (ii) invalids’ benefits;
    - (iii) widow’s benefits;
    - (iv) domestic purposes benefits paid to widowers;
    - (v) veteran’s pension
  - (b) in relation to the Kingdom of Denmark the Social Pensions Act and the Labour Market Supplementary Pensions Act (ATP) as far as they apply to the following pensions and benefits:
    - (i) old age pension;
    - (ii) anticipatory pension and disability benefit;
    - (iii) labour market supplementary pension (ATP).
2. This Agreement shall apply to all laws and regulations amending, supplementing or replacing the legislation specified in paragraph 1.
3. Notwithstanding the provisions of paragraph 2, this Agreement shall apply to laws or regulations relating to new pensions and benefits only if so agreed between the Contracting Parties.
4. This Agreement shall not apply to legislation which extends the application of the legislation specified in paragraph 1 to new groups of beneficiaries if the

competent authority of the Contracting Party to whom the legislation applies so decides and gives notice to that effect within six months from the date of communication of that legislation as mentioned in Article 24(c).

### Article 3—Persons covered

1. This Agreement shall apply to persons who are or have been subject to the legislation in Denmark or New Zealand specified in Article 2, and who are nationals of Denmark or New Zealand or to persons who are stateless persons or refugees residing within the territory of Denmark or New Zealand as well as to the members of their families and their survivors.
2. In the case of New Zealand benefits only, this Agreement also covers residents or former residents of New Zealand.

### Article 4—Equality of treatment

Subject to the special provisions of this Agreement, all persons resident in the territory of Denmark or New Zealand to whom this Agreement applies shall be treated equally by a Contracting Party in regard to rights and obligations which arise under the legislation specified in Article 2 of that Party or as a result of this Agreement.

### Article 5—Export of pensions and benefits

Except as otherwise provided in this Agreement, a benefit acquired under the legislation of one of the Contracting Parties, as specified in Article 2, shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the recipient resides or stays in the territory of the other Contracting Party, and the benefit shall be payable in the territory of the other Contracting Party.

## Part II

### Determination of the legislation applicable

#### Article 6—General rules

In relation to the legislation referred to in Article 2, persons covered by this Agreement are, when residing in the territory of a Contracting Party, subject to the legislation of that Party.

#### Article 7—Special rules applicable to certain persons

1. The general rule of Article 6 shall be subject to the following exceptions:
  - (a) a person resident in the territory of a Contracting Party and employed by an undertaking, whose registered office or place of business is situated in the territory of that Party, and who is posted by that undertaking to the territory of the other Contracting Party to perform work there on a temporary basis on the account of the undertaking, shall continue to be subject to the legislation of the former Party during the first two years of his

stay in the territory of the latter Party. If the duration of the work to be performed in the territory of the other Contracting Party exceeds two years owing to unforeseeable circumstances, the legislation of the former Party shall continue to apply until the completion of the work, provided the competent authorities of both the Contracting Parties give their consent. That consent must be requested before the end of the initial two-year period.

- (b) Travelling personnel employed by transport undertakings or by airlines whose registered office or place of business is situated in the territory of one Contracting Party, and who is working in the territory of the other Contracting Party, shall be subject to the legislation of the former Party.
  - (c) The crew of a vessel and any other person employed on board a vessel shall be subject to the legislation of the Contracting Party whose flag the vessel is flying. If, for the purposes of loading, unloading, repair or watch on board a vessel flying the flag of a Contracting Party during its stay in the territory of the other Contracting Party, a person resident in the territory of the latter Party is employed, he or she shall be subject to the legislation of the latter Party.
2. The provisions of paragraph 1 shall apply by analogy to the accompanying family members.

#### **Article 8—Special rules regarding diplomats and consular staff**

This Convention does not affect the principles of the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations with respect to the legislation specified in Article 2.

### **Part III**

#### **Special provisions relating to Danish benefits**

##### **Article 9—Anticipatory pension**

1. New Zealand nationals shall be entitled to anticipatory pension only if they in the qualifying period laid down in the Social Pensions Act have been physically and mentally capable of carrying on normal occupation for a continuous period of residence in the territory of Denmark of not less than 12 months.
2. Entitlement to anticipatory pension awarded for social reasons in respect of New Zealand nationals shall in addition be subject to the condition that they have been permanently resident in the territory of Denmark for a period of not less than 12 months immediately before the time of submission of the claim for pension and that the need for pension arose while they were resident in the territory of Denmark.

3. Notwithstanding Article 5 of this Agreement, a Danish national resident in the territory of New Zealand shall not be entitled to the award of an anticipatory pension granted for social reasons.

#### Article 10—Export of pensions

1. Social pension shall be payable to a New Zealand national resident in the territory of New Zealand only if the person concerned has carried out an occupation as a worker or self employed person in the territory of Denmark for not less than 12 months of the qualifying period provided for under the Social Pensions Act.
2. Where the conditions under paragraph 1 of this Article have not been met, a pension awarded to a New Zealand national residing in the territory of Denmark shall nonetheless continue to be payable in the territory of New Zealand if, during the qualifying period prescribed in the Social Pensions Act, that person has resided in the territory of Denmark for not less than 10 years, of which at least 5 years are immediately preceding application for the pension.

#### Article 11—Periods of employment

For the implementation of paragraph 1 of Article 10, the following provisions shall apply:

- (a) where membership contributions have been paid in respect of a member of the Danish Labour Market Supplementary Pension Scheme (ATP) for one year, the person concerned shall be regarded as having completed a period of employment of 12 months in the territory of Denmark;
- (b) where a person establishes that he or she was employed in the territory of Denmark for any period before 1 April 1964, that period shall also be accepted;
- (c) where a person establishes that he or she was self-employed in the territory of Denmark for any period, that period shall also be accepted.

#### Article 12—Payment of supplementary benefits and allowances

1. The following supplement, allowances and benefit under the Social Pensions Act, shall be payable to a national of a Contracting Party resident outside the territory of Denmark only according to the provisions of that Act:
  - (a) pensions supplement
  - (b) personal allowance
  - (c) outside assistance allowance
  - (d) constant attendance allowance
  - (e) disability benefit
2. Where a person, who is not a Danish national, has acquired the right to a Danish anticipatory pension, the conversion of his or her pension into a pension payable on a higher scale as a result of an aggravation of his or her invalidity

shall not take place, if the pensioner is resident outside the territory of Denmark.

#### **Article 13—Calculation of periods of residence**

The provision laid down in the Social Pensions Act, making periods of stay abroad, equivalent to residence in the territory of Denmark in the calculation of the period of residence, shall apply only to Danish nationals in relation to this Agreement.

#### **Article 14—Limitation of acquisition of right**

Periods of residence completed under Danish legislation prior to 1 April 1957 shall not be taken into account for the calculation of the amounts of social pensions under Danish legislation payable to New Zealand nationals resident in the territory of New Zealand.

#### **Article 15—Membership of ATP**

The special provisions contained in the Danish legislation on membership of foreign workers of the Labour Market Supplementary Pension Scheme (ATP) shall continue to apply to New Zealand workers employed in the territory of Denmark.

### **Part IV**

#### **Special provisions relating to New Zealand benefits**

##### **Article 16—Residence in Denmark**

1. If a person would be entitled to receive a benefit under the legislation of New Zealand, including a person who would be entitled as a result of Article 17, except that he or she is not ordinarily resident in New Zealand on the date of application for that benefit, that person shall be deemed, for the purposes of that application, to be ordinarily resident in New Zealand on that date, provided that he or she:
  - (a) is ordinarily resident in Denmark, and present either in Denmark or New Zealand, on that date;
  - (b) has the intention of remaining ordinarily resident in Denmark for at least 26 weeks; and
  - (c) has resided in New Zealand at any time in his or her life for a continuous period of at least one year since attaining the age of 20 years.
2. Subject to this Agreement, if a person is entitled to receive a benefit under the legislation of New Zealand, including a person who is entitled as a result of paragraph 1, or of Article 17, or of both, but payment of that benefit is conditional on presence in New Zealand, that person shall be deemed, for the purposes of the payment of that benefit, to be present in New Zealand, provided that he or she:

- (a) is ordinarily resident in Denmark, and present either in Denmark or New Zealand; and
  - (b) has resided in New Zealand at any time in his or her life for a continuous period of at least one year since attaining the age of 20 years.
3. For the purposes of this Part:
- (a) if a person who is ordinarily resident in Denmark is temporarily absent from Denmark for a period which does not exceed 26 weeks, the period of temporary absence from Denmark, shall not be considered as interrupting that person's ordinary residence in Denmark;
  - (b) if a person who has been ordinarily resident in Denmark is absent from Denmark for a period which exceeds 26 weeks that person for the purposes of this Agreement, shall cease to be considered ordinarily resident in Denmark on the date of his or her departure from Denmark; and
  - (c) if a person leaves New Zealand with the intention of becoming ordinarily resident in Denmark for at least 26 weeks, and if that person begins to be ordinarily resident in Denmark within 26 weeks of his or her departure from New Zealand, that person shall be deemed to have become ordinarily resident in Denmark on the date of his or her departure from New Zealand.
4. If a person who is ordinarily resident in Denmark reaches the age of entitlement and is eligible to receive New Zealand superannuation or a veteran's pension, that person shall not be entitled to receive, or shall no longer be entitled to receive, as the case may be, an invalid's benefit, widow's benefit or domestic purposes benefit paid to a widower.
5. For the purposes of this Agreement, a person who has not attained the age of entitlement for New Zealand superannuation shall not be deemed to be entitled or qualified to receive New Zealand superannuation or a veteran's pension.

#### Article 17—Totalisation in relation to New Zealand benefits

1. In determining whether a person meets the residential qualifications for a benefit specified in this Agreement, the competent institution of New Zealand shall:
- (a) in the case of New Zealand superannuation or a veteran's pension deem a Danish period of residence accumulated by that person after attaining the age of 20 years to be periods during which that person was both resident and present in New Zealand; and
  - (b) in the case of an invalid's benefit, a widow's benefit or a domestic purposes benefit paid to a widower, deem a Danish period of residence accumulated by that person under the Danish Social Pensions Act to be a period during which that person was both resident and present in New Zealand.

2. For the purposes of paragraph 1 if a period of residence in New Zealand and a Danish period of residence coincide, the period of coincidence shall be taken into account only once as a period of residence in New Zealand.
3. In determining whether a person who is ordinarily resident in New Zealand or Denmark is entitled to receive a widow's benefit or a domestic purposes benefit paid to a widower a dependent child of that person born in Denmark shall be treated as though that child was born in New Zealand provided that:
  - (a) in the case of a widow, the child was conceived before the death of the last deceased husband; and
  - (b) in the case of a widower, the child was born before the death of the last deceased wife.
4. In determining whether a widow who is ordinarily resident in New Zealand or Denmark is entitled to receive a widow's benefit:
  - (a) that widow shall be deemed to have accumulated a Danish period of residence for any period during which her last deceased husband accumulated a Danish period of residence;
  - (b) any period during which that widow and her last deceased husband both accumulated Danish periods of residence shall be taken into account once only; and
  - (c) a Danish period of residence accumulated under the Danish Pensions Act by the widow's last deceased husband shall be deemed to be a period during which that husband was ordinarily resident in New Zealand for the purposes of determining the ordinary residence of that husband.

#### Article 18—Direct deduction provisions

1. Except as provided in Article 19(d) and 20(d), in determining the rate of a New Zealand benefit, the amount of any analogous overseas pension which includes any Danish benefit or pension shall be directly deducted from the New Zealand benefit in accordance with New Zealand legislation.
2. If a person who is ordinarily resident in New Zealand, is receiving a Danish pension or benefit and a New Zealand benefit, the amount of Danish pension or benefit to be deducted from the New Zealand benefit shall exclude:
  - (a) any bank fees levied by a bank responsible for the transmission of the benefit or pension to New Zealand; and
  - (b) any taxes levied under Danish tax legislation.

#### Article 19—Rate of New Zealand superannuation and veteran's pension in Denmark

1. If a person who is ordinarily resident in Denmark is entitled to receive New Zealand superannuation or a veteran's pension as a result of Article 16, the

amount of that benefit shall, upon application, be calculated in accordance with the following formula:

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

where "Y" equals:

- 480 if the person was born before 1 April 1932;
- 492 if the person was born between 1 April 1932 and 30 June 1932;
- 495 if the person was born between 1 July 1932 and 30 September 1932;
- 498 if the person was born between 1 October 1932 and 31 December 1932;
- 501 if the person was born between 1 January 1933 and 31 March 1933;
- 504 if the person was born between 1 April 1933 and 30 June 1933;
- 507 if the person was born between 1 July 1933 and 30 September 1933;
- 510 if the person was born between 1 October 1933 and 31 December 1933;
- 513 if the person was born between 1 January 1934 and 31 March 1934;
- 516 if the person was born between 1 April 1934 and 30 June 1934;
- 519 if the person was born between 1 July 1934 and 30 September 1934;
- 522 if the person was born between 1 October 1934 and 31 December 1934;
- 525 if the person was born between 1 January 1935 and 31 March 1935;
- 528 if the person was born between 1 April 1935 and 30 June 1935;
- 531 if the person was born between 1 July 1935 and 30 September 1935;
- 534 if the person was born between 1 October 1935 and 31 December 1935;
- 537 if the person was born between 1 January 1936 and 31 March 1936;
- 540 if the person was born after 31 March 1936.

subject to the following provisions:

- (a) in determining the number of whole months residence in New Zealand, only residence after the age of 20 years shall be taken into account;
- (b) all periods of residence in New Zealand since attaining the age of 20 years shall be aggregated;
- (c) the maximum amount of benefit shall be:
  - (i) in the case of a single person, the maximum rate of benefit payable under the social security laws of New Zealand to a single person who is not living alone; and
  - (ii) in the case of a married person, the maximum rate of benefit payable under the social security laws of New Zealand to a married person whose spouse is also entitled to national superannuation or a veteran's pension; and

- (d) no account shall be taken of any pension or benefit which is also payable under the Social Pensions Act of Denmark and other Danish legislation, or any pension or benefit payable by a Third State.
2. A person residing in Denmark on or before the date of entry into force of this Agreement who is receiving payment of New Zealand superannuation or a veteran's pension under section 17 of the Social Welfare (Transitional Provisions) Act 1990 shall be entitled, if he or she so elects, to continue to receive payment of that benefit calculated in accordance with that provision.

#### Article 20—Rate of New Zealand widows' benefit, domestic purposes benefit paid to widowers and invalids' benefit in Denmark

If a person who is ordinarily resident in Denmark is entitled to receive a widow's benefit, a domestic purposes benefit paid to a widower or an invalid's benefit as a result of Article 16, the amount of that benefit shall, upon application, be calculated in accordance with the following formula:

$$\frac{\text{number of whole months residence in New Zealand}}{300 \text{ months}} \times \text{maximum benefit rate}$$

subject to the following provisions:

- (a) in determining the number of whole months residence in New Zealand, only residence after attaining the age of 20 years shall be taken into account;
- (b) all periods of residence in New Zealand since attaining the age of 20 years shall be aggregated;
- (c) the maximum amount of benefit payable shall be the maximum rate of benefit which that person would be entitled to receive under the social security laws of New Zealand; and
- (d) no account shall be taken of any pension or benefit which is also payable under the Danish Social Pensions Act and other Danish legislation, or any pension or benefit payable by a Third State.

#### Article 21—Requirement to supply information

A person shall not be entitled to a benefit under this Agreement or under the legislation of New Zealand if that person fails to supply the competent institution of New Zealand with any information to which that person has access and which is legally required to establish:

- (a) eligibility for a New Zealand benefit; or
- (b) the rate of a pension or benefit payable under the Agreement or under the legislation of New Zealand.

### Article 22—Payment of supplementary benefits and allowances

1. If a person who is ordinarily resident in New Zealand becomes entitled to receive a New Zealand benefit as a result of Article 17, the competent institution of New Zealand shall also pay to that person any supplementary benefit or allowance that is provided for under the legislation of New Zealand for which that person is qualified.
2. If a person who is ordinarily resident in Denmark becomes entitled to receive a New Zealand benefit as a result of this Agreement, the amount of that benefit shall not include any additional supplementary benefit or allowance which would be payable under the legislation of New Zealand if that person were ordinarily resident in New Zealand.

### Article 23—Residence in a third state

A person who:

- (a) is ordinarily resident in New Zealand;
- (b) is entitled to receive a benefit solely through the application of the totalising provisions of Article 17; and
- (c) either:
  - (i) departs New Zealand with the intention of residing in a third state for a period which exceeds 26 weeks; or
  - (ii) resides in a third state for a period which exceeds 26 weeks;

shall not be entitled to receive New Zealand superannuation or veteran's pension while outside New Zealand or Denmark unless he or she is entitled to receive New Zealand superannuation or veteran's pension under a Social Security Agreement which New Zealand has entered into with that third state.

## Part V

### Miscellaneous provisions

#### Article 24—Administrative Arrangement

The competent authorities of the Contracting Parties, or bodies designated by them, shall

- (a) conclude the necessary Administrative Arrangement for the application of this Agreement;
- (b) communicate to each other all information regarding the measures taken for the application of this Agreement;
- (c) communicate to each other all information regarding changes made in their legislation which may affect the application of this Agreement;
- (d) designate in the above-mentioned Administrative Arrangement liaison bodies with a view to facilitating the application of this Agreement.

### Article 25—Mutual assistance

For the purpose of applying this Agreement:

- (a) the competent authorities and institutions of the Contracting Parties shall lend their good offices and act as though applying their own legislation. As a rule such mutual administrative assistance shall be afforded free of charge by the said authorities and institutions;
- (b) the authorities and institutions of the Contracting Parties may communicate directly with each other. These communications shall be made in the English language;
- (c) the authorities, institutions, tribunals and courts of the Contracting Parties may not reject claims or other documents submitted to them on grounds that they are written in an official language of the other Contracting Party.

### Article 26—Exemption from fees

- (1) Any exemption from or reduction of taxes, stamp duty, notarial or registration fees provided for in the legislation of a Contracting Party in respect of certificates or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar certificates or documents required to be produced for the purposes of the legislation of the other Contracting Party or of this Agreement.
- (2) All statements, documents and certificates required to be produced for the purposes of this Agreement shall be exempt from authentication by diplomatic or consular authorities.

### Article 27—Claims for pensions and benefits

Any claim for pensions or benefits shall be submitted in accordance with the provisions of the Administrative Arrangement to be concluded in pursuance of Article 24.

### Article 28—Submission of claims, declarations and appeals

Any claim, declaration or appeal which should have been submitted, in order to comply with the legislation of a Contracting Party, within a specified period to an authority, institution, tribunal or court of that Party shall be admissible if it is submitted within the same period to a corresponding authority, institution, tribunal or court of the other Contracting Party. In these instances the authority, institution, tribunal or court receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution, tribunal or court of the former Party either directly or through the competent authorities of the Party concerned. The date on which such claims, declarations or appeals were submitted to the authority, institution, tribunal or court of the other Contracting Party shall be considered to be the date of their submission to the competent authority, institution, tribunal or court which shall investigate them.

### Article 29—Currency

- (1) Payments under this Agreement may legitimately be made in the currency of the Contracting Party making the payment.
- (2) Should currency restrictions be introduced by either of the Contracting Parties, the two Governments shall immediately and jointly take steps to safeguard transfers between their territories of any money needed for the purpose of implementing this Agreement.

### Article 30—Recovery of overpayments

1. If, when awarding or reviewing pensions or benefits pursuant to this Agreement, the competent authority of one Contracting Party has paid to a recipient of benefits a sum in excess of that to which he or she is entitled, that institution may request the competent institution of the other Contracting Party responsible for the payment of corresponding benefits to that recipient to deduct the amount overpaid from the arrears which it pays to the recipient. The latter institution shall transfer the amount deducted to the creditor institution. Where the amount overpaid cannot be deducted from arrears, the provisions of paragraph 2 shall apply.
2. When the competent institution of one Contracting Party has paid to a recipient of benefits a sum in excess of that to which he or she is entitled that institution may, within the conditions and limits laid down by the legislation which it administers, request the competent institution of the other Contracting Party responsible for the payment of benefits to that recipient to deduct the amount overpaid from the amounts which it pays to the said recipients. The latter institution shall make the deduction under the conditions and within the limits provided for such setting off by the legislation which it administers, as if the sums had been overpaid by itself, and shall transfer the amount deducted to the creditor institution.
3. Amounts deducted by the competent institution of one of the contracting parties in accordance with paragraph 1 and any amount received by that competent institution pursuant to arrangements referred to in paragraph 2, shall be remitted to the other competent institution as agreed between the competent institutions or the Administrative Arrangement made in accordance with Article 24.

### Article 31—Settlement of disputes

1. The competent authorities of the Contracting Parties shall settle, to the extent possible, any disputes which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
2. The Contracting Parties shall consult promptly at the request of either concerning matters which have not been settled by the competent authorities in accordance with paragraph 1.

3. If the dispute has not been settled within six months following the first consultation prescribed in paragraph 2, it shall be submitted to an arbitral tribunal whose composition and procedure shall be agreed upon by the Contracting Parties. The arbitral tribunal shall settle the dispute according to the fundamental principles and in the spirit of the present Agreement. The decision of the arbitral tribunal shall be final and binding upon the Contracting Parties.

## **Part VI**

### **Final and transitional provisions**

#### **Article 32—Transitional provisions**

1. No entitlement to payment of pensions or benefits shall be acquired under this Agreement for any period prior to the date of its entry into force. The commencement date for payment of a pension or benefit payable by virtue of this Agreement shall be determined in accordance with the social security legislation of the Contracting Party concerned.
2. Subject to Article 14 all periods of insurance and periods treated as such, and all periods of employment or residence completed under the legislation of a Contracting Party before the date of entry into force of this Agreement, shall be taken into account for the determination of rights to benefits under this Agreement.
3. Subject to the provision of paragraph 2, a right shall be acquired under this Agreement, even though it relates to a contingency which materialised prior to the entry into force of this Agreement.
4. Upon an application being received, a pension or benefit granted prior to the entry into force of this Agreement shall be recalculated in compliance with the provisions of the Agreement. These pensions or benefits may also be recalculated without any application being made but the recalculation shall not result in any reduction of the pension or benefit paid.

#### **Article 33—Review of the Agreement**

1. The Contracting Parties may agree at any time to review any of the provisions of this Agreement.

#### **Article 34—Entry into force and termination**

1. Both Contracting Parties shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for entry into force of this Agreement. The Agreement shall enter into force on the first day of the third month following the date of the last notification.
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 Contracting Party written notice through diplomatic channels 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 the Agreement:
- (a) at the date of termination, are in receipt of pensions or benefits; or
  - (b) prior to the expiry of the period referred to in that paragraph have lodged claims for, and would be entitled to receive pensions or benefits.

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

DONE in duplicate at Wellington, this 6th day of May 1997 in the English and Danish languages, each version being equally authoritative.

Kris Lund-Jensen

Roger Sowry

For the Government of the Kingdom of  
Denmark

For the Government of New Zealand

Marie Shroff,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 17 July 1997.

## **Reprints notes**

### **1    *General***

This is a reprint of the Social Welfare (Reciprocity with Denmark) Order 1997 that incorporates all the amendments to that order as at the date of the last amendment to it.

### **2    *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3    *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4    *Amendments incorporated in this reprint***

Social Security Act 2018 (2018 No 32): section 459

Veterans' Support Act 2014 (2014 No 56): section 278

Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13): sections 86, 97

War Pensions Amendment Act 2003 (2003 No 18): section 12(2)