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Social Security (International Agreements) Act 1999 Amendment Regulations 2004 (No. 2)¹

Statutory Rules 2004 No. 109²

109

I, PHILIP MICHAEL JEFFERY, Governor-General of the
Commonwealth of Australia, acting with the advice of the
Federal Executive Council, make the following Regulations
under the *Social Security (International Agreements) Act 1999*.

Dated 27 MAY 2004 2004

PM Jeffery
Governor-General

By His Excellency's Command

KAY PATTERSON
Minister for Family and Community Services

1 Name of Regulations

These Regulations are the *Social Security (International Agreements) Act 1999 Amendment Regulations 2004 (No. 2)*.

2 Commencement

These Regulations commence on 1 July 2005.

3 Amendment of *Social Security (International Agreements) Act 1999*

Schedule 1 amends the *Social Security (International Agreements) Act 1999*.

Schedule 1 Amendment
(regulation 3)

[1] **After Schedule 17**
insert

Schedule 18 — Belgium

Note: See section 5.

AGREEMENT
on social security
between
Australia
and
the Kingdom of Belgium

Australia and the Kingdom of Belgium, wishing to strengthen the existing friendly relations between the two countries, and desirous of regulating reciprocal relations between the two countries in the area of social security pensions and coverage, have agreed as follows:

2004, /

Social Security (International Agreements) Act 1999
Amendment Regulations 2004 (No. /)

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PART I**GENERAL PROVISIONS**

Article 1

Definitions

1. For the implementation of this Agreement:
 - a) The term “Belgium” means: the Kingdom of Belgium;
The term “Australia” means: the Commonwealth of Australia;
 - b) The term “territory” means:
In relation to Belgium: the territory of the Kingdom of Belgium;
In relation to Australia: Australia as defined in the legislation of Australia;
 - c) The term “legislation” means:
In relation to Belgium: the laws and determinations specified in article 2, paragraph 1 A;
In relation to Australia: the laws specified in article 2, paragraph 1 B;
 - d) The term “competent authority” means:
In relation to Belgium: the Ministers responsible, as far as they are concerned, for applying the legislation that is the subject of article 2, paragraph 1 A;
In relation to Australia : the Secretary to the Commonwealth Department responsible for the legislation specified in article 2, subparagraph 1 B a), except in relation to the application of Part II of the Agreement, including the application of other Parts of the Agreement as they affect the application of that Part, where it means the Commissioner of Taxation or an authorised representative of the Commissioner;

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- e) The term “competent institution” means:
The institution, organisation or authority responsible for applying, in all or in part, the legislation that is the subject of article 2, paragraph 1;
- f) The term “insurance period” means:
In relation to Belgium: any period recognised as such by the Belgian legislation and similarly any equivalent period recognised by this legislation;
In relation to Australia: a period of Australian working life residence;
- g) In relation to Australia the term “period of Australian working life residence” means: a period defined as such in the legislation of Australia but does not include any period regarded by article 16 as being a period in which that person was an Australian resident;
- h) The term “pension” means a benefit, pension or allowance for which provision is made in the legislation of that Party, and includes any additional amount, increase or supplement that is payable in addition to that benefit, pension or allowance to or in respect of a person who qualifies for that additional amount, increase or supplement under the legislation of that Party but, for Australia, does not include any benefit, payment or entitlement under the law concerning the superannuation guarantee;
- i) In relation to Belgium the term “family member” means: any person defined or accepted as a member of the family or designated as a member of the household by the legislation under which the pensions are provided;
- j) In relation to Belgium the term “residence” means: the usual place of residence.
2. Any word not defined in paragraph 1 of this article has the meaning assigned to it by the applicable legislation.

Article 2

Legislative scope

1. This Agreement shall apply:

A. as regards Belgium, to the laws concerning:

- a) old-age and survivors' pensions for salaried persons and self-employed persons;
- b) invalidity insurance for salaried persons, sailors of the merchant marine, mine workers and self-employed persons;

and, as regards Part II only:

- c) social security for salaried persons;
- d) social security for self-employed persons;

B. as regards Australia, to:

- a) the Acts referred to as “the social security law” in the *Social Security Act 1991*, and any regulations made under any such Act, so far those Acts or regulations provide for, apply to or affect the following pensions:
 - (i) age pension;
 - (ii) disability support pension for a person who is severely disabled;

and as regards Part II, only to:

- b) the law concerning the superannuation guarantee, which at the time of signature of this Agreement is contained in the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee (Administration) Regulations*, provided that this Agreement shall not extend the application of that law.
- 2. This Agreement shall also apply to all acts or regulations which amend, extend or replace the legislation specified in paragraph 1 of this article.
 - 3. It shall apply to any act or regulation which extends the existing schemes to new categories of beneficiaries unless, in this respect, the contracting Party which has amended its legislation notifies the other contracting Party of its objections within six months of the official publication of the said acts.
 - 4. Notwithstanding the provisions of paragraph 1, the legislation shall not include any other Agreement on social security entered into by either contracting Party.
 - 5. This Agreement shall not apply to acts or regulations that establish a new social security sector.

Article 3

Personal scope

This Agreement shall apply to any person who:

- a) is or has been an Australian resident; or is or has been subject to the legislation of Australia;
- or

b) is or has been subject to the legislation of Belgium,

and, to any other persons in regard to the rights they derive from the person described above.

Article 4

Equality of treatment

Subject to this Agreement and unless otherwise provided, all persons to whom this Agreement applies shall be treated equally by a contracting Party in regard to rights and obligations regarding eligibility for and payment of pensions which arise whether directly under the legislation of that contracting Party or by virtue of this Agreement.

Article 5

Export of pensions

1. Unless otherwise specified in this Agreement, pensions acquired under the legislation of either of the contracting Parties cannot be subject to any reduction or modification owing to the fact that the beneficiary stays or resides in the territory of the other contracting Party.
2. Belgian old-age and survivors' pensions shall be paid to Australian nationals residing in the territory of a third country, under the same conditions as if they were nationals of Belgium residing in the territory of that third country.
3. Australian pensions, when payable outside the territory of Australia under the legislation of Australia, shall also be payable outside the territories of both contracting Parties when they are paid under this Agreement.
4. Where qualification for a pension of one contracting Party is subject to limitations as to time, then reference to that contracting Party in those limitations shall be read also as reference to the territory of the other contracting Party.

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5. In relation to Australia, any additional amount, increase or supplement that is payable in addition to a pension under this Agreement shall be payable outside the territory of Australia only if it would be so payable if that pension was payable independently of this Agreement.

Article 6

Reduction or suspension clauses

1. Any provision for reduction or suspension of a pension in the legislation of one contracting Party that applies in circumstances where the pension coincides with other social security pensions or with other income, or because of employment or self-employment in the territory of that contracting Party, shall also operate in respect of pensions payable under the legislation of the other contracting Party, or in respect of income earned or profit received from a professional activity as an employee or self-employed person, carried on in the territory of that other contracting Party.
2. Unless otherwise specified in this Agreement, this rule shall not apply when pensions of the same nature coincide.

PART II

PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 7

In relation to Australia, a reference in this Part to an employee also includes their employer, in respect of work of the employee or remuneration paid for that work.

Article 8

General provisions

1. Subject to articles 9 to 11, the applicable legislation is determined according to the following provisions:
 - (a) a person who is employed or self-employed in the territory of a contracting Party is subject to the legislation of that Party;
 - (b) If an employee is working in the employment of an employer on a ship or aircraft in international traffic, the employer of the employee and employee shall, in respect of the employment and the remuneration paid for that employment, be subject only to the legislation of the contracting Party of which the employee is a resident.
2. In the event of being simultaneously self-employed in Belgium and employed in Australia, the employment in Australia is considered equivalent to employment in Belgium, in view of the determination of obligations resulting from Belgian legislation concerning the social security of self-employed workers.
3. A person who is self-employed in the territory of each of the contracting Parties is subject exclusively to the legislation of the contracting Party in whose territory he or she has his or her usual place of residence. For the determination of the amount of income to be taken into consideration for the contributions owed under the legislation of this contracting Party, the income earned as a self-employed person in the territory of both contracting Parties is taken into account.

Article 9

Special provisions

1.
 - a) An employed person who, being in the service of an enterprise with an office on which that person normally depends in the territory of one of the contracting Parties, is posted by this enterprise to the territory of the other contracting Party to work on its account, shall be subject only to the legislation of the former contracting Party, as if the person continued to be employed in territory of the former contracting Party, on the condition that the foreseeable duration of the person's work does not exceed five years and that he is not sent to replace another person whose posting period has come to an end.
 - b) The provisions of subparagraph a) also apply to the family members who accompany that person to the territory of the other contracting Party, unless they are employed or self-employed in the territory of that Party.
2. Subparagraph 1 b) of article 8 does not apply to persons not normally employed at sea who work in the territorial waters or in a harbour of one of the contracting Parties.

Article 10

Government officials, members of diplomatic missions and consular posts

1. Government officials and equivalent personnel who are sent by the government of a contracting Party to the territory of the other contracting Party are subject only to the legislation of the first mentioned contracting Party. These persons are, for this purpose, considered to be resident in the territory of this contracting Party, even if they are located in the territory of the other contracting Party. For the purposes of this paragraph, "Government officials" includes in relation to Australia officials working for a political subdivision or local authority of Australia.

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2. a) Persons sent by the government of a contracting Party to the territory of the other contracting Party as members of a diplomatic mission or a consular post are subject only to the legislation of the former contracting Party.
- b) Persons engaged by a diplomatic mission or a consular post of one of the contracting Parties in the territory of the other contracting Party are subject only to the legislation of the latter contracting Party.
- c) When the diplomatic mission or the consular post of one of the contracting Parties employs persons who, pursuant to subparagraph b), are subject only to the legislation of the other contracting Party, the mission or post will fulfill the obligations imposed on the employers under the legislation of this contracting Party.
- d) The provisions in subparagraphs b) and c) also apply by analogy to persons employed in private service of a person specified in subparagraph a).
- e) The provisions of subparagraphs a) to d) neither apply to honorary members of a consular post nor persons employed in private service of these persons.
3. The provisions of this article also apply to the family members of the persons referred to in this article, unless they are employed or self-employed in the same territory as those persons are employed.

Article 11

Exceptions

In the interest of certain persons or certain categories of persons covered by this Part, the competent authorities can, in common agreement, specify exceptions to the provisions of articles 7 to 10.

PART III**PROVISIONS CONCERNING PENSIONS****Chapter 1****Provisions concerning Belgian old age and survivors' pensions****Article 12**

1.
 - a) Subject to the provisions of paragraph 2, for the acquisition, retention or recovery of the right to a pension, insurance periods completed pursuant to the Australian legislation concerning pensions are totalised, when necessary and to the extent that they do not overlap, with insurance periods completed pursuant to the Belgian legislation.
 - b) When two periods recognised as periods equivalent to an insurance period coincide, only the period completed in relation to the legislation of the contracting Party where the person concerned has worked before this period shall be taken into consideration.
2. If the Belgian legislation subordinates the acquisition, retention or recovery of the right to certain pensions to the condition that the insurance periods are to be completed in a particular occupation, only insurance periods completed in the same occupation in Australia shall be totalised for that purpose.
3. If the Belgian legislation subordinates the acquisition, retention or recovery of the right to certain pensions to the condition that the insurance periods are to be completed in a particular occupation, and when these periods do not result in entitlement to the said pensions, those periods shall be considered valid for the determination of the pensions provided for in the general scheme of salaried persons.

Article 13

1.
 - a) If a person is entitled to a Belgian pension without totalisation, the Belgian competent institution shall calculate the amount of the pension directly on the basis of the insurance periods completed in Belgium and only under the Belgian legislation.
 - b) This institution shall also calculate the amount of the pension that would be obtained by applying the rules specified in paragraph 2. Only the higher of these two amounts shall be used.
2. If a person is entitled to a Belgian pension solely by totalisation of the insurance periods completed in accordance with article 12, the following rules apply:
 - a) the Belgian competent institution shall calculate the amount of the pension that would be due if all the insurance periods completed according to the two contracting Parties' legislation were exclusively completed under the legislation it applies;
 - b) this institution shall then calculate the amount due, on the basis of the amount specified under a), in proportion to the duration of the insurance periods under its legislation, in relation to the duration of all insurance periods accounted under a).

Article 14

1. If, because of the rising cost of living, the variation of wage levels or other causes, the Australian age pensions are changed by a given percentage or amount, it is not necessary to proceed to a new calculation of the Belgian old-age or survivors' pensions.

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2. On the other hand, in case of modification of the rules or of the computation process with regard to the establishment of the old-age or survivors' pensions, a new computation shall be performed according to article 13.

Chapter 2

Provisions concerning Australian age pensions

Article 15

Residence or presence in Belgium or a third State

Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for an Australian pension except for not being an Australian resident and in Australia on the date on which the claim for that pension is lodged, but:

- a) is an Australian resident or a resident of Belgium or a third State with which Australia has concluded an agreement on social security that includes provision for cooperation in the lodgement, assessment and determination of claims for pensions; and
- b) is in Australia, or Belgium or that third State,

that person, so long as he or she has been an Australian resident at any time, shall be deemed, for the purpose of lodging that claim, to be an Australian resident and in Australia on that date.

Article 16

Totalisation for Australia

1. Where a person to whom this Agreement applies has claimed an Australian pension under this Agreement and has accumulated:
 - a) a period as an Australian resident that is less than the period required to qualify that person, on that ground, under the legislation of Australia for that pension; and
 - b) a period of Australian working life residence equal to or greater than the period identified in accordance with paragraph 4 for that person; and
 - c) a period of insurance in Belgium;

then, for the purposes of a claim for that Australian pension, that period of insurance in Belgium shall be deemed to be a period in which that person was an Australian resident, only for the purposes of meeting any minimum qualifying periods for that pension set out in the legislation of Australia.

2. For the purposes of paragraph 1, where a person:
 - a) has been an Australian resident for a continuous period which is less than the minimum continuous period required by the legislation of Australia for entitlement of that person to a pension; and
 - b) has accumulated a period of insurance in Belgium in two or more separate periods that equals or exceeds in total the minimum period referred to in subparagraph a);

the total of the periods of insurance in Belgium shall be deemed to be one continuous period.

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3. For the purposes of this article, where a period by a person as an Australian resident and a period of insurance in Belgium coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.
 4. The minimum period of Australian working life residence to be taken into account for the purposes of paragraph 1 shall be as follows:
 - a) for the purposes of an Australian pension that is payable to a person who is not an Australian resident, the minimum period required shall be 12 months, of which at least six months must be continuous; and
 - b) for the purposes of an Australian pension that is payable to an Australian resident, there shall be no minimum period.

Article 17

Calculation of Australian pensions

1. Subject to paragraph 3, where an Australian pension is payable, whether by virtue of this Agreement or otherwise, to a person who is outside Australia, the rate of that pension shall be determined according to the legislation of Australia. When assessing the income of that person for the purposes of calculating the rate of the Australian pension, only a proportion of any Belgian pension shall be regarded as income. That proportion shall be calculated by multiplying the number of whole months, not exceeding 300, of Australian working life residence used in the assessment of that person's Australian pension by the amount of Belgian pension and dividing that product by 300.
2. Only a person receiving a proportionalised Australian pension shall be entitled to receive the concessional assessment of income in paragraph 1.

3. The provision in paragraph 1 shall continue to apply for 26 weeks where a person comes temporarily to Australia.
4. Subject to paragraph 5, where an Australian pension is payable only by virtue of this Agreement to a person who is in Australia, the rate of that pension shall be determined by:
 - a) calculating that person's income according to the legislation of Australia but disregarding in that calculation any Belgian pension which that person or the partner of that person is entitled to receive if applicable; and
 - b) deducting the amount of the Belgian pension which that person is entitled to receive from the maximum rate of that Australian pension; and
 - c) applying to the remaining pension obtained under subparagraph b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under subparagraph a).
5. The provisions in paragraph 4 shall continue to apply for 26 weeks where a person departs temporarily from Australia.
6. Where the rate of a pension calculated in accordance with paragraph 4 is less than the rate of that pension which would be payable under paragraph 1 if the person concerned were outside Australia, the first-mentioned rate shall be increased to an amount equivalent to the second-mentioned rate.
7. Where a member of a couple is, or both that person and his or her partner are, entitled to a Belgian pension or pensions, each of them shall be deemed, for the purposes of this article and of the legislation of Australia, to be in receipt of one half of either the amount of that pension or the total of both of those pensions, as the case may be.

Chapter 3

Provisions concerning Belgian invalidity and Australian disability support pensions

Article 18

1. The legislation of the contracting Party which was applicable to the person at the time that the person became, in the case of Belgium, incapacitated, or in the case of Australia, qualified for a disability support pension, shall be used to determine whether the person concerned receives that pension. The insurance periods of both contracting Parties may be totalised where necessary for the acquisition, retention or recovery of the right to that pension.
2. A person who satisfies the conditions referred to in paragraph 1 shall obtain the pension from the competent institution of the aforementioned contracting Party, in accordance with the legislation which it administers.

Article 19

The beneficiary of an invalidity pension under the Belgian legislation is still entitled to this pension during a temporary stay in Australia when this temporary stay has first been authorised by the Belgian competent institution. This authorisation can, however, only be refused if the temporary stay takes place in the period during which, by virtue of the Belgian legislation, the Belgian competent institution must estimate or revise the state of invalidity.

PART IV**MISCELLANEOUS PROVISIONS****Article 20****Responsibilities of the competent authorities**

The competent authorities shall:

- a) take, by administrative arrangement, the necessary steps to apply this Agreement and designate the liaison bodies and the competent institutions;
- b) define the procedures for mutual administrative assistance, including the sharing of expenses associated with obtaining medical, administrative and other evidence required for the implementation of this Agreement.

Article 21**Administrative collaboration**

- 1. The competent authorities and competent institutions shall, to the extent permitted by the legislation which they administer:
 - a) communicate to each other any information necessary for the application of this Agreement;
 - b) lend their good offices and furnish assistance to one another, including communication to each other of any information necessary, with regard to the determination or payment of any pension under this Agreement or under the legislation to which this Agreement applies as if the matter involved the application of their own legislation;

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- c) communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation insofar as these changes affect the application of this Agreement; and
 - d) 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 contracting Parties with third States, to the extent and in the circumstances specified in the Administrative Arrangement made in accordance with article 20.
2. The assistance referred to in paragraph 1 shall be provided free of charge, subject to any arrangement reached between the competent authorities and competent institutions for the reimbursement of certain types of expenses.
3. Unless disclosure is required under the legislation of a contracting Party, any information about an individual which is transmitted in accordance with this Agreement to a competent authority or a competent institution of that contracting Party by a competent authority or a competent institution of the other contracting Party is confidential and shall be used only for the purpose of implementing this Agreement and the legislation to which this Agreement applies.
4. In no case shall the provisions of paragraphs 1 and 3 be construed so as to impose on the competent authority or competent institution of a contracting Party the obligation:
- a) to carry out administrative measures at variance with the laws or the administrative practice of that or the other contracting Party; or
 - b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or the other contracting Party.

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5. Notwithstanding any laws or administrative practices of a contracting Party, no information concerning a person which is received by that contracting Party from the other contracting Party shall be transferred or disclosed to any other country or to any organisation within that other country without the prior written consent of that other contracting Party.
 6. For the application of this Agreement, the competent authorities and the competent institutions of the contracting Parties are authorised to correspond directly with each other and similarly with any person, whether this person is present in Australia, Belgium or a third State. Correspondence may be in one of the official languages of the contracting Parties.

Article 22

Taxes and exemption from authentication

1. The benefit of exemption from, or reduction in taxes, stamp duty, recording or registration as provided for by the legislation of one of the contracting Parties for the documents and papers required to be produced under the legislation of that contracting Party, is extended to similar documents and papers required to be produced under the legislation of the other contracting Party.
2. All statements and documents required to be produced under this Agreement are exempt from the diplomatic or consular authorities' stamp of authentication.

Article 23

Claims, notices and appeals

1. (a) Where a claim, notice or appeal under the legislation of one contracting Party has been lodged with an authority, institution or tribunal of the other contracting Party which, under the legislation of the latter contracting Party, is competent to receive an equivalent claim, notice or appeal, such a claim, notice or appeal shall be deemed to have been lodged with the authority, institution or tribunal of the first contracting Party on the same date as the claim, notice or appeal was lodged with the authority, institution or tribunal in the other contracting Party.

(b) In this case, the receiving authority, institution or tribunal, shall transmit without delay such a claim, notice or appeal to the authority, institution or tribunal of the first contracting Party, either directly or by the intermediary of the competent authorities of the contracting Parties.
2. A claim for a pension from one contracting Party shall be considered as a claim for a corresponding pension from the other contracting Party so long as the claimant has indicated in that claim that there is, or there was, an affiliation with the social security system of that other contracting Party.
3. A document may not be rejected on the basis of it being written in an official language of the other contracting Party.
4. The reference in paragraph 1 to an appeal document is a reference to a document concerning an appeal that may be made to an administrative institution established by, or administratively for the purposes of, the respective legislation.

Article 24

Settlement of disputes

The competent authorities of the contracting 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 25

Review of Agreement

Where a contracting Party requests the other to meet to review this Agreement, the Parties shall meet for that purpose no later than six months after that request was made and, unless the Parties otherwise agree, their meeting shall be held in the territory of the contracting Party to which the request was made.

Article 26

Payment of pensions

1. The commencement date for payment of a pension payable by virtue of this Agreement shall be determined in accordance with the legislation of the contracting Party concerned but in no case shall that date be a date earlier than the date on which this Agreement enters into force.
2. The pensions paying institutions may discharge their obligations under this Agreement in their national currency.
3. Transfers resulting from the implementation of this Agreement shall take place pursuant to the Agreements that exist between both contracting Parties.
4. The provisions in the legislation of one of the contracting Parties with regard to exchange control shall not obstruct the free transfer of financial amounts resulting from the implementation of this Agreement.

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5. A pension payable by a contracting Party by virtue of this Agreement to a person outside the territory of that Party shall be paid without deduction for government administrative fees and charges for processing and paying that pension.
 6. The payment outside Australia of an Australian pension that is payable by virtue of this Agreement shall not be restricted by those provisions of the legislation of Australia which prohibit the payment of a pension to a former Australian resident who returns to Australia becoming again an Australian resident, and lodges a claim for an Australian pension and again leaves Australia within a specified period of time.

Article 27

Recovery of overpayments

1. Where:
 - a) a pension is paid or payable by a contracting Party to a person in respect of a past period whether by virtue of this Agreement or otherwise;
 - b) for all or part of that period, the other contracting Party has paid to that person a pension under its legislation; and
 - c) the amount of the pension paid by that other contracting Party would have been reduced had the pension paid or payable by the first contracting Party been paid during that period,

then the amount that would not have been paid by the other contracting Party, had the pension described in subparagraph a) been paid on a periodical basis throughout that past period, shall be a debt due by that person to the other Party and may be recovered by that contracting Party.

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2. Where the competent institution of the first contracting Party has not yet paid the arrears of pension described in paragraph 1 to the person:
- a) that competent institution shall, at the request of the competent institution of the other contracting Party, pay the amount of the debt described in paragraph 1 to the competent institution of the other contracting Party and shall pay any excess to the person, in line with the provisions set out in the Administrative Arrangement made in accordance with article 20; and
 - b) any shortfall in those arrears may be recovered by the other contracting Party.
3. Notwithstanding the definition of “pension” used elsewhere in this Agreement, a reference in paragraphs 1 and 2 to a pension, in relation to Australia, means a pension, benefit or allowance that is payable under the Acts forming the social security law of Australia as amended from time to time.

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article 28

Possible instances prior to the Agreement coming into force

- 1. This Agreement shall also apply to events which occurred prior to its coming into force.
- 2. This Agreement shall not create any entitlement to pensions for any period prior to its coming into force.

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3. All insurance periods completed under the legislation of one of the contracting Parties prior to the date on which this Agreement comes into force shall be taken into consideration in determining entitlement to any pension in accordance with the provisions of this Agreement.

Article 29

Revision, proscription, forfeiture

1. Any Belgian pension that was not paid or that was suspended by reason of the nationality of the interested person or by reason of that person's residence in Australia shall, on application by the interested person, be paid or restored from the coming into force of this Agreement.
2. The entitlement of interested persons who, prior to the coming into force of this Agreement, obtained the payment of a Belgian pension or an annuity may be revised upon application by those persons, in accordance with the provisions of this Agreement. In no case shall such a revision result in a reduction of the prior entitlement of the interested persons.
3. If the application referred to in paragraph 1 or 2 of this article is made within two years of the coming into force of this Agreement, any entitlement arising from the implementation of this Agreement shall be effective from the date of coming into force, and the legislation of either contracting Party concerning the forfeiture or the proscription of rights shall not be applicable to such interested persons.
4. If the application referred to in paragraph 1 or 2 of this article is made after two years following the coming into force of this Agreement, the rights which are not subject to forfeiture or which are not proscribed shall be acquired from the date of the application, unless more favourable legislative provisions of the contracting Party concerned are applicable.

Article 30

Term of Agreement

This Agreement is made for an indefinite period. It may be terminated by one of the contracting Parties by written notice delivered to the other Party giving twelve months' notice.

Article 31

Guarantee of rights that are acquired or in the course of acquisition

1. In the event of termination, this Agreement shall continue to have effect in relation to all persons who:
 - (a) at the date on which termination takes effect, are in receipt of pensions; or
 - (b) prior to that date have lodged claims for, and would be entitled to receive, pensions by virtue of this Agreement; or
 - (c) immediately before the date of termination are subject only to the legislation of one Party by virtue of Part II of the Agreement, provided the persons concerned continue to satisfy the criteria of that Part.
2. The contracting Parties shall continue to collaborate for the purpose of applying paragraph 1.

Article 32

Agreement to come into force

This Agreement will come into force on the first day of the second month that follows the date of receipt of the note by which the last of the two contracting Parties has informed the other contracting Party that the formalities that are legally required for this Agreement to come into force have been completed.

In witness whereof, the undersigned, being duly authorised, signed this Agreement.

Done in two copies at Canberra, on the Twentieth day of November,
Two thousand and two, in the English, Dutch and French languages, the
three texts being equally authoritative.

FOR AUSTRALIA

FOR THE KINGDOM OF BELGIUM

Amanda VANSTONE

Annemie NEYTS-UYTTEBROECK

Notes

1. These Regulations amend Act No. 173, 1999, as amended by Act Nos. 45, 94 and 138, 2000; Statutory Rules 2000 Nos. 104, 105 and 165; 2001 Nos. 215 (repealed by SR 2002 No. 34) and 245 (repealed by SR 2002 No. 34); 2002 Nos. 31, 32 (as amended by 2002 Nos. 164 and 225), 33 (as amended by 2002 No. 210) and 165; Act No. 30, 2003; Statutory Rules 2003 Nos. 207 (as amended by 2003 No. 374) and 374; 2004 No. 19.
2. Notified in the *Commonwealth of Australia Gazette* on / 2004. 3 June