



© Éditeur officiel du Québec

Updated to 1 September 2014
This document has official status.

chapter R-9, r. 25

Regulation respecting the implementation of the Understanding on Social Security between the Gouvernement du Québec and the Government of Jamaica

An Act respecting the Québec Pension Plan

(chapter R-9, s. 215)

Tax Administration Act

(chapter A-6.002, ss. 9 and 96)

An Act respecting the Ministère de l'Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail

(chapter M-15.001, s. 10)

1. The Act respecting the Québec Pension Plan (chapter R-9) and the Regulations made thereunder apply to any person referred to in the Understanding on Social Security between the Gouvernement du Québec and the Government of Jamaica signed on 21 June 1988 and appearing in Schedule 1.

O.C. 1792-88, s. 1.

2. That Act and those Regulations apply as provided in the Understanding and in the Administrative Arrangement to the Understanding appearing in Schedule 2.

O.C. 1792-88, s. 2.

3. *(Omitted).*

O.C. 1792-88, s. 3.

SCHEDULE 1

(s. 1)

UNDERSTANDING ON SOCIAL SECURITY BETWEEN QUÉBEC AND JAMAICA

The Gouvernement du Québec,

and

The Government of Jamaica

Resolved to guarantee to their respective nationals the advantages of the co-ordination of the social security legislations of Québec and Jamaica,

Have agreed as follows:

PART I

GENERAL PROVISIONS

ARTICLE 1

DEFINITIONS

In the Understanding, unless a different meaning is indicated by the context, the following definitions shall apply:

- (a) «competent authority»: the minister of Québec or the minister of Jamaica responsible for the application of the legislation referred to in Article 2;
- (b) «competent institution»: the department or agency of Québec or the department or agency of Jamaica responsible for the administration of the legislation referred to in Article 2;
- (c) «period of insurance»: any year for which contributions have been paid or for which a disability pension has been paid under the Act respecting the Québec Pension Plan or any other year considered as equivalent; and a period of contribution, whether paid or credited, used to acquire a right to a benefit under the legislation of Jamaica;
- (d) «benefit»: a pension, an annuity, an allowance, a lump-sum grant or any other benefit in cash or in kind provided under the legislation of each Party, including any extension, supplement or increase thereto;
- (e) «national»: a person of Canadian citizenship residing in Québec or a person of Jamaican citizenship,

and any term not defined in the Understanding shall be understood as having the meaning given to it in the applicable legislation.

ARTICLE 2

MATERIAL SCOPE

1. This Understanding shall apply:

- (a) to the legislation of Québec concerning the Québec Pension Plan;
- (b) to the National Insurance Act of Jamaica and to the regulations made thereunder concerning old age benefits, invalidity benefits, widow's or widower's benefits, orphan's benefits, special child's benefits and funeral grants.

2. The Understanding shall apply equally to any legislative or regulatory act which modifies, adds to, or replaces the legislation referred to in paragraph 1, subject to paragraph 4.

3. The Understanding shall apply also to a legislative or regulatory act of one Party which extends the existing systems to new categories of beneficiaries; however, this Party may, within three months of the date of the official publication of that act, notify the other Party that the Understanding shall not apply.

4. The Understanding shall not apply to a legislative or regulatory act which covers a new branch of social security, unless the Understanding is modified to that effect.

ARTICLE 3

PERSONAL SCOPE

Unless otherwise provided, the Understanding shall apply:

- (a) to nationals of each Party;
- (b) to refugees, within the meaning of Article 1 of the Convention Relating to the Status of Refugees of July 28, 1951, and of the Protocol of January 31, 1967, to that Convention;

(c) to stateless persons, within the meaning of Article 1 of the Convention Relating to the Status of Stateless Persons of September 28, 1954;

(d) to other persons

who are or have been subject to the legislation of a Party or who have acquired rights by virtue of that legislation.

ARTICLE 4

EQUALITY OF TREATMENT

Unless otherwise provided in the Understanding, persons designated in Article 3 shall, in the application of the legislation of a Party, receive equal treatment with the nationals of that Party.

ARTICLE 5

EXPORT OF BENEFITS

1. Unless otherwise provided in the Understanding, any benefit acquired under the legislation of one Party, as well as benefits acquired under the Understanding, may not suffer any reduction, modification, suspension, suppression nor confiscation solely as a result of the beneficiary residing or sojourning in the territory of the other Party, and such benefit is payable in the territory of the other Party.

2. Any benefit which, under the Understanding, is payable by one Party in the territory of the other Party, is also payable outside the territory of either Party under the same conditions that the first Party applies to its nationals under its internal legislation.

PART II

PROVISIONS ON THE APPLICABLE LEGISLATION

ARTICLE 6

GENERAL RULE

Subject to Articles 7, 8, 9, 10 and 11, persons shall only be subject to the legislation of the Party in whose territory they are working.

ARTICLE 7

SELF-EMPLOYED PERSONS

Persons residing in the territory of one Party and working for their own account in the territory of the other Party or in the territory of both Parties shall, with respect to such work, be subject only to the legislation of their place of residence.

ARTICLE 8

SECONDMENT

1. Persons subject to the legislation of one Party and temporarily seconded by their employers, for a period not exceeding thirty-six months, to the territory of the other Party shall, with respect to such employment, be subject only to the legislation of the first Party during the term of their secondment.

However, if the time required to complete the work comes to exceed thirty-six months, the legislation of the first Party may continue to apply provided that the competent institutions of both Parties give their approval.

ARTICLE 9

TRAVELLING PERSONNEL EMPLOYED IN INTERNATIONAL TRANSPORT

1. Persons working in the territory of both Parties as travelling personnel for an international carrier which, on behalf of others or on its own account, transports passengers or goods, by air or by sea, and which has its registered office in the territory of one Party, shall be subject to the legislation of this Party.
2. However, if those persons are employed by a branch or permanent agency which the undertaking has in the territory of one Party other than the Party in whose territory it has its registered office, they shall be subject to the legislation of the Party in whose territory the branch or permanent agency is located.
3. Notwithstanding the preceding two paragraphs, if the persons are employed wholly or mainly in the territory of the Party where they are resident, they shall be subject to the legislation of that Party, even if the undertaking which employs them has neither its registered office nor a branch or permanent agency in that territory.

ARTICLE 10

PERSONS IN GOVERNMENT SERVICE

1. Persons employed by one of the Parties and assigned to a post in the territory of the other Party shall be subject only to the legislation of the first Party for all matters relative to that post.
2. Persons residing in the territory of one Party and employed in that territory by the other Party shall, with respect to that service, be subject only to the legislation which applies in that territory. However, if those persons are nationals of the Party by which they are employed, they may, within six months from the beginning of their employment or from the coming into force of the Understanding, choose to be subject only to the legislation of that Party.
3. In the application of this article, Canadian citizens who do not reside in Québec but who are or have been subject to the legislation of Québec are deemed to be nationals of Québec.
4. No provision of the Understanding may be interpreted as being contrary to the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or to the provisions of the Vienna Convention on Consular Relations of April 24, 1963, relative to the legislation mentioned in Article 2.

ARTICLE 11

DEROGATION

The competent authorities of both Parties may by common agreement derogate from the provisions of Articles 6, 7, 8, 9 and 10 with respect to any persons or categories of persons.

PART III

PROVISIONS ON BENEFITS

ARTICLE 12

PRINCIPLE OF TOTALIZATION

When persons have completed periods of insurance under the legislation of both Parties and are not eligible to benefits by virtue of the periods of insurance completed solely under the legislation of one Party, the competent institution of this Party shall totalize, to the extent necessary for the entitlement to benefits under the legislation which it applies, the periods of insurance completed under the legislation of each of the Parties, provided that they do not overlap.

ARTICLE 13

BENEFITS UNDER THE LEGISLATION OF QUÉBEC

1. If persons who have been subject to the legislation of both Parties meet the requirements for entitlement to benefits, for themselves or for their dependents, survivors or other rightful claimants, under the legislation of Québec without having recourse to the totalization mentioned in Article 12, the competent institution of Québec shall determine the amount of benefits in accordance with the provisions of the legislation which it applies.

2. If the persons referred to in paragraph 1 are not entitled to benefits without totalization, the competent institution of Québec shall proceed as follows:

(a) it shall recognize a year of contribution when the competent institution of Jamaica certifies that those persons have been credited with a period of insurance of at least thirteen weeks in a year under the legislation of Jamaica, provided that the year is included in the contributory period as defined in the legislation of Québec;

(b) years recognized under sub-paragraph a shall be totalized with periods of insurance completed under the legislation of Québec, in accordance with Article 12.

3. When the totalization prescribed in paragraph 2 entitles persons to benefits, 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 the legislation of Québec;

(b) the flat rate portion of the benefit is adjusted proportionately to the periods for which contributions were paid under the legislation of Québec relative to the contributory period as defined in that legislation.

ARTICLE 14

BENEFITS UNDER THE LEGISLATION OF JAMAICA

1. If persons who have been subject to the legislation of both Parties meet the requirements for entitlement to benefits, for themselves or for their dependents, survivors or other rightful claimants, under the legislation of Jamaica without having recourse to the totalization mentioned in Article 12, the competent institution of Jamaica shall determine the amount of benefits in accordance with the provisions of the legislation which it applies.

2. If the persons referred to in paragraph 1 are not entitled to benefits without totalization, the competent institution of Jamaica shall proceed as follows:

(a) it shall recognize, with respect to the calendar year 1966, thirty-nine weeks for which contributions have been paid under the legislation of Jamaica, where the competent institution of Québec certifies that those persons have been credited with a period of insurance for that year under the legislation of Québec;

(b) it shall be recognized, with respect to any year commencing on or after January 1, 1967, fifty-two weeks for which contributions have been paid under the legislation of Jamaica, where the competent institution of Québec certifies that these persons have been credited with a period of insurance for each of those years;

(c) it shall recognize a week for which contributions have been paid under the legislation of Jamaica when it is informed by the liaison agency of Québec that a week commencing on or after April 4, 1966, is considered as a week of residence under the terms of the Old Age Security Act which applies in the territory of Québec, provided that that week is not part of a period of insurance under the Québec Pension Plan;

(d) the weeks recognized under sub-paragraphs a, b and c shall be totalized with periods of insurance completed under the legislation of Jamaica, in accordance with Article 12.

3. When the totalization prescribed in paragraph 2 entitles persons to benefits, the competent institution of Jamaica shall determine the amount payable as follows:

(a) it shall first determine the part of the benefit which is related to earnings according to the provisions of the legislation of Jamaica;

(b) it shall then determine the flat rate portion of the benefit payable by Jamaica by multiplying:

(i) the amount of flat rate benefit arrived at by dividing the total weekly contributions, paid or credited under the National Insurance Act of Jamaica, by the total number of years in the contributory period

by

(ii) the ratio that the total number of weekly contributions, paid or credited, under the National Insurance Act of Jamaica, represents in relation to the total of those contributions and of only those periods of insurance credited under the legislation of Québec necessary to satisfy the minimum requirements for entitlement;

(c) where the yearly average of contributions, as determined under the provisions of sub-paragraph b i) of paragraph 3 of this Article, is less than the required minimum for payment of a flat rate benefit, the amount of benefit payable will be determined by multiplying the minimum flat rate benefit payable under the Act by the ratio that the total number of weekly contributions, paid or credited, represents in relation to the total of those contributions and of only those periods of insurance credited under the legislation of Québec necessary to satisfy the required yearly average of contributions.

4. Notwithstanding any other provision of this Understanding, where a grant is payable under the legislation of Jamaica, but eligibility for a corresponding pension under that legislation can be established through the application of this Understanding, the pension shall be paid in lieu of the grant.

5. Where a grant, other than a death benefit, was paid under the legislation of Jamaica in respect to an event which happened before the date of the coming into force of this Understanding, and where eligibility for a corresponding pension under that legislation is subsequently established through the application of the Understanding, the competent institution of Jamaica shall deduct from any benefit payable in the form of a pension any amount previously paid in the form of a grant.

ARTICLE 15

COMMON PROVISIONS

If persons are not entitled to benefits after the totalization prescribed in Article 13 or in Article 14, the periods of insurance completed under the legislation of a third party having, with each Party, entered into a social security understanding containing provisions on the totalization of periods of insurance shall be taken into account for the determination of entitlement to benefits in accordance with the modalities prescribed in this Part.

PART IV

MISCELLANEOUS PROVISIONS

ARTICLE 16

ADMINISTRATIVE ARRANGEMENT

1. The terms and 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 agency of each Party shall be appointed in the Administrative Arrangement.

ARTICLE 17

MUTUAL ASSISTANCE

The competent authorities and institutions shall:

- (a) communicate to each other any information required for the application of the Understanding;
- (b) assist each other at no cost with regard to any matter concerning the application of the Understanding, subject to Article 24;
- (c) forward to each other any information on measures adopted for the application of the Understanding or on modifications to their legislation to the extent that such modifications affect the application of the Understanding;
- (d) notify each other of the difficulties encountered in the interpretation or in the application of the Understanding and try to resolve them, as far as possible.

ARTICLE 18

PROTECTION OF PERSONAL INFORMATION

1. In this Article, the word «information» shall mean any indication from which the identity of an individual or legal entity can be easily established.
2. Unless disclosure is required under the legislation of a Party, any information communicated by an institution of one Party to an institution of the other Party shall be confidential and shall be used exclusively for the application of the Understanding.
3. Access to a file containing information shall be subject to the legislation of the Party on the Party on whose territory the file is located.

ARTICLE 19

PAYMENT OF BENEFITS

1. All cash benefits shall be payable directly to the beneficiary without any deduction for administrative costs, or any other costs incurred in paying the benefits.
2. Benefits under this Understanding shall be paid by the competent institution of Québec and of Jamaica in a currency freely convertible in the place of residence of the beneficiary.
3. In the application of paragraph 2, the conversion rate shall be the rate of exchange in effect on the day when the payment is made.

ARTICLE 20

EXEMPTION OF FEES AND AUTHENTICATION

1. Any reduction or exemption of fees provided for in the legislation of one Party with respect to the issuing of a certificate or document required in accordance with that legislation is extended to the certificates and documents required in accordance with the legislation of the other Party.
2. Any document required for the application of the Understanding is exempt from authentication by diplomatic or consular authorities or from other similar formalities.

ARTICLE 21

CLAIM FOR BENEFITS

1. To be entitled to a benefit under the Understanding, a person shall file a claim in accordance with the terms and conditions provided for in the Administrative Arrangement.
2. A claim for a benefit filed under the legislation of one Party after the date of the coming into force of the Understanding shall be deemed to be a claim for an equivalent benefit under the legislation of the other Party, if the person:

(a) requests that the claim be considered as a claim under the legislation of the other Party; or

(b) indicates, at the time of the claim, that periods of insurance have been completed under the legislation of the other Party.

3. The presumption set out in preceding paragraph shall not prevent a person from requesting that a claim for benefits under the legislation of the other Party be deferred.

ARTICLE 22

DELAY OF PRESENTATION

1. A request, a declaration or an appeal which, under the legislation of one Party, should have been presented within a prescribed time to the authority or institution of that Party shall be accepted if presented within the same time to the corresponding authority or institution of the other Party. In such a case, the authority or institution of the second Party shall forward, without delay, the request, declaration or appeal to the authority or institution of the first Party.

2. The date on which the request, declaration or appeal is presented to the authority or institution of one Party shall be considered as the date of presentation to the authority or institution of the other Party.

ARTICLE 23

EXPERTS' REPORTS

1. At the request of the competent institution of one Party, the competent institution of the other Party shall make the necessary arrangements for providing experts' reports required for persons residing or sojourning in the territory of the last Party.

2. The experts' reports referred to in paragraph 1 shall not be considered invalid solely on the basis of the fact that they have been prepared in the territory of the other Party.

ARTICLE 24

REIMBURSEMENT BETWEEN INSTITUTIONS

1. The competent institution of one Party shall reimburse to the competent institution of the other Party the costs related to each expert's report produced in accordance with Article 23. However, the transmission of medical or other information already in the possession of the competent institutions constitutes an integral part of administrative assistance and shall be performed without charge.

2. The Administrative Arrangement shall provide for the terms and conditions of the reimbursement of costs referred to in the previous paragraph.

ARTICLE 25

COMMUNICATION

1. The competent authorities, institutions and liaison agencies of both Parties may communicate with each other in their respective official language.

2. A decision of a tribunal or of an institution may be communicated directly to a person residing in the territory of the other Party.

PART V

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 26

TRANSITIONAL PROVISIONS

1. The Understanding does not confer any right to the payment of benefits for a period before the date of its coming into force.

2. Subject to the provisions of paragraph 1 of this Article:

(a) periods of insurance completed prior to the date of the coming into force of the Understanding shall be taken into consideration for the purposes of determining entitlement to a benefit under the Understanding;

(b) a benefit, other than a death benefit or a funeral grant is due under the Understanding even if it is related to an event prior to the date of its coming into force;

(c) in the case of a benefit payable by virtue of the application of Article 12 and when the claim for such benefit is made within two years from the date of the coming into force of the Understanding, rights opened by virtue of the Understanding shall be acquired from that date or from the date of the retirement, the death or the invalidity as confirmed by a medical practitioner opening the right to benefit, whichever is latter, notwithstanding the provisions of the legislation of both Parties relative to the forfeiture of rights;

(d) a benefit which, on account of nationality or residence, has been refused, reduced or suspended shall be, at the request of the person concerned, granted or re-established from the date of the coming into force of the Understanding;

(e) a benefit granted before the date of the coming into force of the Understanding shall be revised, at the request of the person concerned. It may also be revised *ex officio*. If the revision leads to a benefit lower than that which was paid before the coming into force of the Understanding, the amount of benefit previously paid shall be maintained;

(f) if a claim referred to in sub-paragraphs *d* and *e* is filed within two years of the date of the coming into force of the Understanding, rights opened by virtue of the Understanding shall be acquired from the date of the coming into force of the Understanding, notwithstanding the provisions of the legislation of both Parties relative to the forfeiture of rights:

(g) if a claim referred to in sub-paragraphs *d* and *e* is filed after the time limit of two years after the coming into force of the Understanding, rights which are not forfeited shall be acquired from the date of the claim, unless there are more favorable provisions in the applicable legislation.

3. For the application of Article 8, a person already seconded at the date of the coming into force of the Understanding shall be deemed to have become seconded on that date.

ARTICLE 27

COMING INTO FORCE AND DURATION

1. Each contracting Party shall notify the other when the internal procedures required for the coming into force of the Understanding have been completed.

2. The Understanding shall be entered into for an indefinite duration beginning with the date of its coming into force, which shall be set by an exchange of letters between the contracting Parties. It may be denounced by one of the Parties by notifying the other Party. The Understanding shall expire on the 31st day of December which follows the date of notification by at least twelve months.

3. If the Understanding is terminated by denunciation, all rights acquired by a person under the provisions of the Understanding shall remain in effect, and negotiations shall be undertaken in order to settle any rights in the process of being acquired under the Understanding.

Done at Québec City on June 21, 1988, in duplicate, in the French and English languages, both texts being equally authentic.

For the Gouvernement du

Québec

YVES SÉGUIN

For the Government of

Jamaica

H. DALE ANDERSON

O.C. 1792-88, Sch. 1.

SCHEDULE 2

(s. 2)

ADMINISTRATIVE ARRANGEMENT TO THE UNDERSTANDING ON SOCIAL SECURITY BETWEEN QUÉBEC AND JAMAICA

The Gouvernement du Québec

and

The Government of Jamaica,

Considering Article 16 of the Understanding on Social Security between the Gouvernement du Québec and the Government of Jamaica,

Desirous of giving application to the Understanding,

Have agreed as follows:

ARTICLE 1

DEFINITIONS

In this Administrative Arrangement,

(a) The term «Understanding» shall mean the Understanding on Social Security between the Government of Jamaica and the Gouvernement du Québec, signed on June 21, 1988;

(b) all other terms used shall have the meaning given to them in Article 1 of the Understanding.

ARTICLE 2

LIAISON AGENCIES

In accordance with the provisions of paragraph 2 of Article 16 of the Understanding, the liaison agencies designated by each of the Parties shall be:

(a) as regards Québec, the Secrétariat de l'administration des ententes de sécurité sociale or any other agency that the competent authority of Québec may subsequently designate;

(b) as regards Jamaica, the Ministry of Social Security and Consumer Affairs or any other agency that the competent authority of Jamaica may subsequently designate.

ARTICLE 3

CERTIFICATE OR COVERAGE

1. For the application of Articles 7 to 11 of the Understanding, when a person remains subject to the legislation of one Party while working in the territory of the other Party, a certificate of coverage shall be

issued by the liaison agency of the Party whose legislation applies.

2. The liaison agency of one Party issuing a certificate of coverage shall send a copy of that certificate to the liaison agency of the other Party, to the self-employed person or to the employed person and to the employer of that person.

ARTICLE 4

CLAIM FOR BENEFIT

1. A claim for a benefit by virtue of the Understanding may be presented to the liaison agency of either Party, or to the competent institution of the Party whose legislation applies.
2. When a claim for benefit mentioned in paragraph 1 is presented to a liaison agency, that agency shall send that claim to the competent institution of the Party whose legislation is applicable, along with the required supporting documents.
3. When the claim for a benefit referred to in paragraph 2 of Article 21 of the Understanding is presented to the institution of one Party, that institution shall send that claim to the liaison agency of the same Party. That liaison agency shall send that claim to the institution of the other Party, along with the required supporting documents.
4. Any claim for benefit shall be deemed to have been received by the institution of one of the Parties on the date on which that claim has been initially received in accordance with the Understanding.
5. Any information concerning the civil status indicated on a claim shall be certified by the liaison agency transmitting the claim, which shall then be exempt from transmission of the supporting documents.
6. Any original document or a copy thereof shall be kept by the liaison agency to which it was initially submitted and a copy shall, upon request, be provided to the competent institution of the other Party.
7. A liaison form shall accompany the claim and the supporting documents referred to in this Article.
8. If so requested by the competent institution or by the liaison agency of one Party, the liaison agency of the other Party shall indicate the periods of insurance on the liaison form.
9. As soon as decisions have been taken pursuant to the legislation which applies, a competent institution shall notify the claimants and inform them about the ways of recourse and time limits for such recourse prescribed by that legislation; the institution shall also inform, by means of the liaison form, the liaison agency of the other Party about the decisions.

ARTICLE 5

REIMBURSEMENT BETWEEN INSTITUTIONS

For the application of Article 24 of the Understanding, at the end of each calendar year, when the competent institution of one Party has procured experts' reports at the expense of the competent institution of the other Party, the liaison agency of the first Party shall send to the liaison agency of the other Party a statement listing the fees pertaining to the experts' reports procured during the year under consideration, indicating the amount owed. That statement shall be accompanied by supporting documents.

ARTICLE 6

FORMS

Any forms or other documents necessary to implement the procedures prescribed by the Administrative Arrangement shall be determined by common agreement by the competent institutions and the agencies responsible for the application of the Understanding for each of the Parties.

ARTICLE 7

STATISTICS

The liaison agencies of both Parties shall exchange, in the form agreed upon, statistical data concerning the payments made to beneficiaries during each calendar year under the Understanding. Such data shall include the number of beneficiaries and the total amount of benefits, by benefit category.

ARTICLE 8

COMING INTO FORCE AND DENUNCIATION

The Administrative Arrangement shall come into force on the same date as the Understanding. The denunciation of the Understanding carries the denunciation of the Administrative Arrangement.

Done at Québec City on June 21, 1988, in duplicate, in the French and English languages, both texts being equally authentic.

For the Gouvernement du

Québec

YVES SÉGUIN

For the Government of

Jamaica

H. DALE ANDERSON

O.C. 1792-88, Sch. 2.

REFERENCES

O.C. 1792-88, 1988 G.O. 2, 3970

S.Q. 2010, c. 31, s. 91