

chapter R-9, r. 32

Regulation respecting the implementation of an Understanding and an Administrative Arrangement on Social Security between the Gouvernement du Québec and the Government of the Republic of the Philippines

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 shall apply to any person referred to in the Understanding on Social Security between the Gouvernement du Québec and the Government of the Republic of the Philippines signed on 22 October 1996 and appearing in Schedule I.

O.C. 1255-98, s. 1.

2. That Act and those Regulations shall apply in the manner stipulated in the Understanding and in the Administrative Arrangement appearing in Schedule II.

O.C. 1255-98, s. 2.

3. *(Omitted).*

O.C. 1255-98, s. 3.

SCHEDULE I

(s. 1)

UNDERSTANDING ON SOCIAL SECURITY BETWEEN QUEBEC AND THE REPUBLIC OF THE PHILIPPINES

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

AND

THE GOUVERNEMENT DU QUÉBEC,

RESOLVED to guarantee to their respective nationals the advantages of the co-ordination of the social security legislations of the Republic of the Philippines and Québec.

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 expressions shall mean:

- (a) «competent authority»: the Minister of Québec or the Administrator of the Social Security System of the Republic of the Philippines responsible for the application of the legislation referred to in Article 2;
- (b) «competent institution»: the department or agency of Québec or the Social Security System of the Republic of the Philippines responsible for the administration of the legislation referred to in Article 2;
- (c) «period of insurance»: for Québec, 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, for the Republic of the Philippines, any month for which a contribution has been paid or credited;
- (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»: for Québec, a person of Canadian citizenship, who is or has been subject to the legislation referred to in Article 2 1a; and, for the Republic of the Philippines, a person of Philippine citizenship, who is or has been subject to the legislation referred to in Article 2 1b,

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. The Understanding shall apply:

- (a) to the legislation of Québec concerning the Québec Pension Plan;
- (b) to the Social Security Law of the Republic of the Philippines with respect to retirement, disability and death benefits.

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.

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 3 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 or confiscation solely as a result of the beneficiary residing or sojourning in the territory of the other Party, and such benefit shall be 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, shall also be 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

Unless otherwise provided in the Understanding and subject to Articles 7, 8, 9, 10 and 11, persons shall be subject only 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

Detached Persons

1. Persons subject to the legislation of one Party and temporarily detached by their employers, for a period not exceeding 60 months, to the territory of the other Party shall, with respect to such work, be subject only to the legislation of the first Party during the term of their detachment.

2. However, if the time required to complete the work comes to exceed 60 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, with respect to such work, be subject only 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, with respect to such work, be subject only to the legislation of the Party in whose territory the branch or permanent agency is located.
3. Notwithstanding the preceding 2 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 in Government Service for 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 being in that territory in Government Service for 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 6 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. 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 referred to in Article 2.

Article 11

Derogation from the Provisions on Coverage

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 for benefits in the case of Québec, and monthly pensions in the case of the Republic of the Philippines, by virtue of the periods of insurance completed solely under the legislation of one Party, the competent institution of that Party shall totalize, to the extent necessary for the entitlement to benefits or monthly pensions 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 dependants, 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 do not fulfill the requirements for giving entitlement 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 the Republic of the Philippines certifies that a period of insurance of at least 3 months has been credited in a calendar year under the legislation of the Republic of the Philippines, 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 amount of the flat-rate portion of the benefit payable under the provisions of this Understanding shall be determined by multiplying:

the amount of the flat-rate portion of the benefit determined under the provisions of the Québec Pension Plan

by

the fraction which represents the ratio of the periods of contributions of the Québec Pension Plan in relation to the contributory period as defined in the legislation regarding that Plan.

Article 14

Benefits under the Legislation of the Republic of the Philippines

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

2. If the persons referred to in paragraph 1 do not fulfil the requirements for giving entitlement to monthly pensions without totalization, the competent institution of the Republic of the Philippines shall proceed as follows:

(a) it shall recognize 12 months of contribution in a year when the competent institution of Québec certifies that those persons have been credited with a period of insurance under the legislation of Québec;

(b) if entitlement to monthly pensions is not acquired with the application of the preceding sub-paragraph, it shall recognize a contribution month under the legislation of the Republic of the Philippines when that month is considered as a month of residence under the Old Age Security Act which applies in the territory of Québec, provided that that month is not part of a period of insurance credited under the legislation of Québec;

(c) months recognized under sub-paragraphs *a* and *b* shall be totalized with periods of insurance completed under the legislation of the Republic of the Philippines, in accordance with Article 12.

3. When the totalization prescribed in paragraph 2 entitles persons to monthly pensions, the competent institution of the Republic of the Philippines shall determine the amount payable as follows:

(a) it shall first determine the amount of the theoretical monthly pension which would be payable under the legislation of the Republic of the Philippines solely on the basis of the minimum periods of insurance required under that legislation;

(b) it shall then multiply the amount of the theoretical monthly pension by the ratio that the periods of insurance actually completed under the legislation of the Republic of the Philippines represent in relation to the minimum periods of insurance required under that legislation.

4. For the application of the preceding paragraph, when the right to monthly pensions is acquired with the sole totalization of periods of insurance according to paragraph 2 *a* of this Article, the creditable periods under the Old Age Security Act which applies in the territory of Québec shall not be taken into account for the calculation of the monthly pension payable.

5. Notwithstanding any other provision of this Understanding, where a lump sum benefit for retirement, disability or death is payable under the legislation of the Republic of the Philippines but eligibility for a corresponding monthly pension under that legislation can be established through the application of this Understanding, the monthly pension shall be paid in lieu of the lump sum benefit.

6. Where a lump sum benefit retirement, disability or death was paid under the legislation of the Republic of the Philippines in respect of an event which happened before the date of entry into force of this Understanding and where eligibility for a corresponding monthly pension under that legislation is subsequently established through the application of this Understanding the competent institution of the Republic of the Philippines shall deduct from any benefit payable in the form of a monthly pension any amount previously paid in the form of a lump sum benefit.

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 bound to each Party by a legal instrument on social security 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 terms and conditions 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 designated in the Administrative Arrangement.

Article 17

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 a corresponding benefit under the legislation of the other Party, in the following cases:

(a) when a person indicates the wish that the claim be considered as a claim under the legislation of the other Party;

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

The date of receipt of such a claim shall be deemed to be the date on which that claim was received under the legislation of the first Party.

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

Article 18

Payment of Benefits

1. (a) The competent institution of Québec shall discharge its obligations under this Understanding in the Canadian currency;

(b) The competent institution of the Republic of the Philippines shall discharge its obligations under this Understanding:

(i) in respect of a beneficiary resident in the Republic of the Philippines, in the currency of the Republic of the Philippines;

(ii) in respect of a beneficiary resident in Québec or in a third State, in a freely convertible currency.

2. In the application of sub-paragraph 1b ii, the conversion rate shall be the rate of exchange in effect on the day when the payment is made.

3. Benefits shall be paid to beneficiaries free from any deduction for administrative expenses that may be incurred in paying the benefits.

Article 19

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 20

Medical 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 medical reports required for persons residing or sojourning in the territory of the latter Party.

2. The medical reports referred to in paragraph 1 shall not be considered invalid solely because they have been prepared in the territory of the other Party.

Article 21

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 shall be 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 shall be exempt from authentication by diplomatic or consular authorities or from any other similar formalities.

Article 22

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 whose territory the file is located.

Article 23

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 free of charge in any matter concerning the application of the Understanding;
- (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.

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 medical report produced in accordance with Article 20. However, the transmission of medical or other information already in the possession of the competent institutions shall constitute 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 and institutions and the liaison agencies of both Parties may communicate with each other in their 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.

Article 26

Settlement of Disputes

1. Any dispute between the 2 contracting Parties concerning the interpretation or the application of the Understanding shall, as far as possible, be settled by the competent authorities.

2. If a dispute cannot be settled as prescribed in paragraph 1, it shall be referred, at the request of one Party, to a joint commission.

3. The joint commission shall be formed on an ad hoc basis.

4. The joint commission shall study the dispute and try to conciliate the Parties by submitting recommendations likely to settle the dispute.

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article 27

Transitional Provisions

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

2. For the application of Part III and subject to the provisions of paragraph 1 of this Article:

(a) a period 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 the death benefit payable under the Québec legislation, 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 or of a monthly pension payable by virtue of the application of Article 12 and when the claim for such benefit is made within 2 years from the date of the coming into force of the Understanding, rights created 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 creating the right to benefit, whichever is later, 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, at the request of the person concerned, be 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 request referred to in sub-paragraphs *d* and *e* is filed within 2 years of the date of the coming into force of the Understanding, rights created by virtue of the Understanding shall be acquired from that date, notwithstanding the provisions of the legislation of both Parties relative to the forfeiture of rights;

(g) if a request referred to in sub-paragraphs *d* and *e* is filed after the limit of 2 years after the coming into force of the Understanding, rights which are not forfeited shall be acquired from the date of the request, unless there are more favorable provisions in the applicable legislation.

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

Article 28

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 12 months.

3. If the Understanding is terminated after 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 on October 24nd, 1996, in duplicate, in the English and French languages, both texts being equally authentic.

FOR THE GOUVERNEMENT DU QUÉBEC

SYLVAIN SIMARD

FOR THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

JUAN C. TAN

O.C. 1255-98, Sch. I.

SCHEDULE II

(s. 2)

ADMINISTRATIVE ARRANGEMENT FOR THE IMPLEMENTATION OF THE UNDERSTANDING ON SOCIAL SECURITY BETWEEN QUÉBEC AND THE REPUBLIC OF THE PHILIPPINES

THE GOUVERNEMENT DU QUÉBEC

AND

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES,

CONSIDERING Article 16 of the Understanding on Social Security between the Gouvernement du Québec and the Government of the Republic of the Philippines,

DESIROUS to give application to this 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 Gouvernement du Québec and the Government of the Republic of the Philippines signed on October 22nd, 1996;
- (b) all other terms 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 Direction des équivalences et de l'administration des ententes de sécurité sociale of the Ministère des Relations avec les citoyens et de l'Immigration or any other agency that the competent authority of Québec may subsequently designate;
- (b) as regards the Republic of the Philippines, the International and Legislative Affairs Office of the Social Security System or any other agency that the competent authority of the Republic of the Philippines may subsequently designate.

Article 3

Certificate of 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

- (a) by the liaison agency of Québec, when the person remains subject to the legislation of Québec;
- (b) by the liaison agency of the Republic of the Philippines, when the person remains subject to the legislation of the Republic of the Philippines.

2. The liaison agency issuing the certificate of coverage shall send a copy of that certificate to the other liaison agency mentioned in paragraph 1, to the person concerned and, if applicable, to the employer of that person.

Article 4

Retirement, Disability and Survivor's Benefits

1. For the application of Part III of the Understanding, 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 17 of the Understanding is presented to the competent institution of one Party, that institution shall send that claim to the liaison agency of the same Party. The liaison agency shall send that claim to the competent institution of the other Party, along with the required supporting documents.

4. Any required personal information regarding an individual, mutually determined by the liaison agencies and indicated on the liaison form, shall be certified by the liaison agency transmitting the claim, which shall then be exempt from transmission of the supporting documents.

5. A liaison form shall accompany the claim and the supporting documents referred to in this Article.

6. If so requested by the competent institution or by the liaison agency of one Party, the liaison agency or the competent institution of the other Party shall indicate, on the liaison form, the periods of insurance recognized under the legislation which it applies.

7. As soon as decisions with respect to claims have been taken pursuant to the legislation which it applies, the 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 competent 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 a Party has produced medical reports, on behalf or 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 medical reports produced 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 may 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 on October 22nd, 1996, in duplicate, in the English and French languages, both texts being equally authentic.

FOR THE GOUVERNEMENT DU QUÉBEC

SYLVAIN SIMARD

FOR THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

JUAN C. TAN

O.C. 1255-98, Sch. II.

REFERENCES

O.C. 1255-98, 1998 G.O. 2, 4279

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