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chapter R-9, r. 36

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

An Act respecting the Québec Pension Plan

(chapter R-9, s. 215)

Tax Administration Act

(chapter A-6.002, s. 96)

1. The Act respecting the Québec Pension Plan (chapter R-9) and the regulations made thereunder apply to every person referred to in the Understanding on Social Security between the Gouvernement du Québec and the Government of Saint Lucia.

O.C. 1744-87, s. 1.

2. The Act and regulations apply in the manner prescribed by the Understanding appearing in Schedule I, by the Final Protocol and by the Administrative Arrangement consequent thereto and appearing respectively in Schedule II.

O.C. 1744-87, s. 2.

3. *(Omitted).*

O.C. 1744-87, s. 3.

SCHEDULE I

(s. 2)

UNDERSTANDING ON SOCIAL SECURITY BETWEEN QUÉBEC AND SAINT LUCIA

The Gouvernement du Québec

and

The Government of Saint Lucia,

Having resolved to guarantee to their respective nationals the advantages of the co-ordination of the social security legislations of Québec and Saint Lucia,

Have hereby 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 Saint Lucia responsible for the application of the legislation referred to in paragraph 1 of Article 2;
- (b) «competent institution»: the department or agency of Québec or the department or agency of Saint Lucia responsible for the administration of the legislation referred to in paragraph 1 of 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; and as regards Saint Lucia, a period of contributions, whether 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»: a person of Canadian citizenship residing in Québec or a person of Saint Lucia 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. The Understanding shall apply:

- (a) to the legislation of Québec concerning the Québec Pension Plan;
- (b) to the legislation of Saint Lucia concerning retirement benefits, invalidity benefits, survivor'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.

3. The Understanding shall apply also to any 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.

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

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

Self-employed 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

Detachment

1. Persons subject to the legislation of one Party and temporarily sent by their employers, for a period not exceeding 36 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 their secondment.

2. 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

Persons 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 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 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

Applicable Benefits

1. For the purposes of this Part, the word «benefit» does not include a grant payable under the legislation of Saint Lucia.

2. This Part shall apply to all benefits referred to in the Act respecting the Québec Pension Plan.

3. This Part shall also apply to all benefits referred to in sub-paragraph *b* of paragraph 1 of Article 2.

Article 13

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 14

Benefits under the Legislation of Québec

1. Persons who have been subject to the legislation of both Parties shall be entitled, as shall their dependants, survivors and other rightful claimants, to benefits under the Québec legislation if they meet requirements for entitlement to benefits under this legislation. 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 are not entitled to benefits under the Québec legislation, the competent institution of Québec shall proceed as follows:
 - (a) it shall recognize a year of contribution where the competent institution of Saint Lucia certifies that these persons have been credited with a period of insurance of at least three months in a year under the legislation of Saint Lucia, provided that the year is included in the contributory period as defined in the Québec legislation;
 - (b) years recognized under sub-paragraph a shall be totalized with periods of insurance completed under the Québec legislation, in accordance with Article 13.
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 Québec legislation;
 - (b) the flat rate portion of the benefit is adjusted proportionately to the periods for which contributions were paid under the Québec legislation relative to the contributory period as defined in that legislation.

Article 15

Benefits under the Legislation of Saint Lucia

1. Persons who have been subject to the legislation of both Parties shall be entitled, as shall their dependants, survivors and other rightful claimants, to benefits under the legislation of Saint Lucia if they meet the requirements for entitlement to benefits under that legislation. The competent institution of Saint Lucia shall determine the amount of benefits in accordance with the provisions of the legislation which it applies.
2. If the persons are not entitled to benefits under the legislation of Saint Lucia, the competent institution of Saint Lucia shall proceed as follows:
 - (a) it shall recognize, with respect to the calendar year 1970, three months for which contributions have been paid under the legislation of Saint Lucia, where the competent institution of Québec certifies that these persons have been credited with a period of insurance for that year under the Québec legislation;
 - (b) it shall recognize, with respect to any year commencing on or after January 1, 1971, twelve months for which contributions have been paid under the legislation of Saint Lucia, 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, with respect to any month commencing on or after October 1, 1970, a month for which contributions have been paid under the legislation of Saint Lucia, where that month is considered, under the Old Age Security Act of Canada as it applies in the territory of Québec, as a month of residence and where that month is not part of a period of insurance under the Québec Pension Plan;
 - (d) the months recognized under sub-paragraphs a, b and c shall be totalized with periods of insurance completed under the legislation of Saint Lucia, in accordance with Article 13.
3. Where the totalization prescribed in paragraph 2 entitles persons to benefits the competent institution of Saint Lucia shall determine the amount payable as follows:

(a) it shall first determine the amount of the theoretical benefit which would be payable under the legislation of Saint Lucia on the basis of the minimum period of insurance required under that legislation for entitlement to the benefit;

(b) it shall then multiply the theoretical benefit by the ratio that the periods of insurance actually completed under the legislation of Saint Lucia represent in relation to the minimum periods of insurance required under that legislation for entitlement to the benefit in question.

4. Notwithstanding any other provision of the Understanding, where a retirement grant, an invalidity grant or a survivor's grant is payable under the legislation of Saint Lucia, 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 retirement grant, an invalidity grant or a survivor's grant was paid under the legislation of Saint Lucia in respect of an event which happened before the date of the coming into force of the Understanding, and where eligibility for a corresponding pension under that legislation is subsequently established through the application of the Understanding, the competent institution of Saint Lucia shall deduct from any benefit payable in the form of a pension any amount previously paid in the form of a grant.

Article 16

Common Provisions

If persons are not entitled to benefits after the totalization prescribed in Article 14 or in Article 15, 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 17

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 18

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;
- (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 any difficulties encountered in the interpretation or application of the Understanding and try to resolve them, as far as possible.

Article 19

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 20

Payment of Benefits

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

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

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 after the coming into force of the Understanding under the legislation of one Party shall be deemed to be a claim for an equivalent benefit under the legislation of the other Party, if the claimant
 - (a) requests that it be considered a claim under the legislation of the other Party, or
 - (b) provides information at the time of the claim indicating that the person on whose record benefits are claimed has completed periods of insurance 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 23

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 24

Experts' Reports

1. The competent institution of one Party may, at the request of the competent institution of the other Party, make arrangements for providing experts' reports concerning persons residing or sojourning in its territory.
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 25

Reimbursement between Institutions

1. The competent institution of one Party shall reimburse the costs of professional fees for each expert's report prepared according to Article 24. 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 provided 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 26

Communication

1. The competent authorities and institutions of both Parties may communicate with each other in their official language.
2. A decision of a tribunal or 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 27

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

(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, is due under the Understanding even if it is related to an event prior to the date of its coming into force;

(c) any 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;

(d) a benefit granted before the date of the coming into force of the Understanding shall be reviewed, at the request of the person concerned;

(e) if a claim referred to in sub-paragraphs *c* and *d* is filed within two years of the date of the coming into force of the Understanding and unless there are more favorable provisions in the applicable legislation, rights under the Understanding shall be acquired from the latter date, notwithstanding the provisions of the legislation of a Party concerning the forfeiture or the limitations of rights;

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

(g) in the case where a claim other than one referred to in sub-paragraphs *c* and *d* is made within one year 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 event creating the right to benefit, whichever is the latter, notwithstanding the provisions of the legislations of both Parties relative to the prescription of rights.

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 in writing. The Understanding shall expire on the 31st day of December which follows the date of notification by at least twelve months.

3. If 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 City on the 16th day of September, 1987, in duplicate, in the English and French languages, both texts being equally authentic.

For the Gouvernement du

Québec

YVES SÉGUIN

For the Government of

Saint Lucia

ROMANUS LANSIQUOT

O.C. 1744-87, Sch. I.

SCHEDULE II

(s. 2)

ADMINISTRATIVE ARRANGEMENT FOR THE APPLICATION OF THE UNDERSTANDING ON SOCIAL SECURITY BETWEEN QUÉBEC AND SAINT LUCIA

The Gouvernement du Québec

and

The Government of Saint Lucia,

Pursuant to Article 17 of the Understanding on Social Security between the Gouvernement du Québec and the Government of Saint Lucia,

Being desirous of giving effect 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 Saint Lucia and the Gouvernement du Québec, signed on 16 September 1987;

(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 paragraph 2 of Article 17 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 Saint Lucia, the National Insurance Board or any other agency that the competent authority of Saint Lucia may subsequently designate.

Article 3

Certificate of Coverage

1. In cases referred to in Article 8 to 11 of the Understanding, when a person working in the territory of one Party remains subject to the legislation 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 issuing a certificate of coverage shall send a copy of that certificate to the liaison agency of the other Party, to the self-employed, or to the employed person and to the employer of that person.

Article 4

Claim for Benefit

1. For the application of Part III of the Understanding, a claim for 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 is presented to a liaison agency in accordance with paragraph 1, that agency shall send that claim to the competent institution of the Party whose legislation is applicable, along with the required supporting documents.
3. The competent institution of one Party which receives a claim for benefit referred to in paragraph 2 of Article 22 of the Understanding, shall send that claim to the liaison agency of that Party. That liaison agency shall transmit that claim to the competent institution of the other Party along with the required supporting documents.
4. Any information concerning the civil status indicated on a claim shall be certified by the liaison agency transmitting the claim. That agency shall not be required to transmit the supporting documents.
5. 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.
6. A liaison form shall be attached to the claim and to any supporting documents.
7. 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.
8. As soon as the competent institution has taken a decision on a claim, pursuant to the applicable legislation, the competent institution shall notify the claimant and inform the claimant of the ways of recourse and the time limits for such recourse prescribed by that legislation. The competent institution shall also inform the liaison agency of the other Party by means of a liaison form.

Article 5

Reimbursement between Institutions

For the application of Article 25 of the Understanding, at the end of each calendar year, when the competent institution of a Party has produced 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 produced during the year under consideration, indicating the amount owed. That statement shall be forwarded with 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 shall be deemed to be a denunciation of the Administrative Arrangement.

Done at Québec City on the 16th day of September, 1987, in duplicate in the French and English languages, both texts being equally authentic.

For the Gouvernement du

Québec

YVES SÉGUIN

For the Government of

Saint Lucia

ROMANUS LANSIQUOT

O.C. 1744-87, Sch. II.

REFERENCES

O.C. 1744-87, 1987 G.O. 2, 4100

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