

Social Security Agreement with the Kingdom of Norway

Background

- 4.1 Australia's bilateral social security agreements are aimed at closing the gaps in social security coverage for people who migrate between countries. Social security agreements do this by overcoming barriers to pension payments in the domestic legislation of each country. These include requirements on citizenship, minimum contributions record, past residence record and current country of residence.¹
- 4.2 In addition, social security agreements help people to maximise their income and provide for greater choice in retirement destination. Agreement countries pay approximately \$602 million annually into Australia, while Australia pays approximately \$244 million annually in pensions into agreement countries.²
- 4.3 Australia has bilateral social security agreements in place with Austria, Canada, Chile, Croatia, Cyprus, Denmark, Germany, Italy, Malta, the Netherlands, New Zealand, Portugal, Slovenia, Spain and the United States of America.³

1 National Interest Analysis (NIA), para. 3.

2 Mrs Michalina Stawyskyj, *Transcript of Evidence*, 19 June 2006, p. 5.

3 Mrs Michalina Stawyskyj, *Transcript of Evidence*, 19 June 2005, p. 6.

Purpose of the Agreement

- 4.4 The *Agreement on Social Security between the Government of Australia and the Government of the Kingdom of Norway*,⁴ (the Agreement) provides for enhanced access to certain Australian and Norwegian social security benefits and greater portability of these benefits between countries.⁵
- 4.5 Under the Agreement, Australian and Norwegian residents will be able to move between Australia and Norway with the knowledge that their right to benefits is recognised in both countries.⁶
- 4.6 The Department of Families, Community Services and Indigenous Affairs (FaCSIA) informed the Committee:
- Consistent with Australia's other shared responsibility agreements, the new agreement will allow people to lodge claims from the other country, overcome time and other limitations on the portability of payments if people live in either country and provide avenues for mutual administrative assistance to facilitate the determination of correct entitlements.⁷
- 4.7 The Agreement includes age pension, the disability support pension for people who are severely disabled and the avoidance of double coverage for superannuation. Norway will reciprocate with the age pension, disability pension and pensions for survivors.⁸

Other social security agreements

- 4.8 At the time of its review of the Belgium, Chile and Slovenia social security agreements with Australia, the Committee received evidence

4 While this Agreement is new, the Australian Government has recently revised existing social security agreements with Austria, Canada, Ireland, Malta, the Netherlands, Portugal and Spain. Revision of these social security agreements included: changes to disability support pension eligibility; the rates of benefits for the first 26 weeks for temporary visitors; and the elimination of superannuation double coverage.

5 NIA, para. 4.

6 NIA, para. 4.

7 Mrs Michalina Stawyskyj, *Transcript of Evidence*, 19 June 2006, p. 6.

8 Mrs Michalina Stawyskyj, *Transcript of Evidence*, 19 June 2006, p. 6.

that there were plans to evaluate the social security agreements with the United States of America (US) and Germany.⁹

4.9 FaCSIA informed the Committee that the evaluation of the US agreement was underway and progressing slowly. FaCSIA is in the process of collecting further information, which it will make available to the Committee.¹⁰

4.10 The Committee was also informed that the social security agreements with Switzerland and Japan were expected to be finalised and signed in late 2006. The Australian Government is also in negotiations for social security agreements with Korea and Latvia.¹¹

4.11 In relation to a social security agreement with Greece, the Committee was informed:

The Greek agreement has taken some time, but we are very pleased to be able to report that we met with the Greeks last week for our first discussions since about 1994. We had very productive discussions, mainly as an information exchange preparatory to the first negotiation discussions. The Greek delegation is expected to come out to Australia some time in September or October this year. Both sides agreed that it would probably take us two or three discussions, and there seems to be commitment on their side as well as ours to progress it as quickly as possible.¹²

9 The US Agreement commenced in October 2002 and the Germany Agreement commenced in January 2003. JSCOT Report 53: Treaties tabled in May and June 2003, August 2003, p. 18.

10 Mr Peter Hutchinson, *Transcript of Evidence*, 19 June 2006, p. 8.

11 Mr Peter Hutchinson, *Transcript of Evidence*, 19 June 2006, p. 8.

12 Mrs Michalina Stawyskyj, *Transcript of Evidence*, 19 June 2006, p. 9.

Consultation

4.12 Norwegian Community Groups,¹³ welfare organisations¹⁴ and State/Territory Governments were consulted during the treaty negotiation period. Two formal responses were received from the Multicultural Communities' Council of South Australia (MCCSA) and the Federation of Ethnic Communities' Council of Australia (FECCA). MCCSA supported the Agreement. FECCA raised concerns regarding the treatment of overseas pensions as income for the purposes of determining the rate of Australian pension payable to a person. A letter was sent to FECCA explaining the rationale behind the assessment of overseas pensions as income.¹⁵

4.13 FaCSIA informed the Committee of the response provided to FECCA:

Essentially, a person who received a full Norwegian pension would not receive a full Australian pension, because of our income test. But, as we pointed out to the Federation of Ethnic Communities Council in our reply to their concerns, the means test in Australia is relatively generous in terms of there being a very significant free area up to which a person can have income and still not affect their Australian pension. And, of course, there is a taper of 40c in the dollar. A pensioner with other income, whether it is from private earnings or overseas pensions, is still significantly better off than a pensioner without any private income.¹⁶

13 Organisations consulted include: The Norwegian Clubs of Victoria, NSW & Qld, The Scandinavian Club of WA, Scandinavian Australian Association, Norwegian War Veterans and the Scandinavian Association of SA. NIA, Consultation Annex.

14 Organisations consulted include: ACROD, Association of Independent Retirees, Combined Pensioners and Superannuants Association, Council of Intellectual Disabilities Agencies, Ethnic Communities Councils of Qld & West Australia, Multicultural Councils of NT Inc, Tasmania and SA, National Ethnic Disability Alliance, Physical Disability Council of Australia Ltd., Welfare Rights Group, ACT Multicultural Community Council, Australian Council of Social Services, Council on the Ageing National Seniors, Ethnic Communities' Councils of NSW & Vic, FECCA, National Seniors Association, and Southern Cross Group. NIA, Consultation Annex.

15 NIA, Consultation Annex.

16 Mr Peter Hutchinson, *Transcript of Evidence*, 19 June 2006, p. 7.

Costs

- 4.14 The Agreement is expected to result in a reduction in administered outlays of \$0.740 million over the period ending 2009-2010. The Agreement, with the inclusion of the Social Security Agreement with Switzerland will cost \$2.466 million to implement over the same period.¹⁷

Entry into force and withdrawal

- 4.15 The Agreement will enter into force between Parties on the first day of the third month following the month in which notes are exchanged through diplomatic channels. An exchange of notes has been proposed to take place in October 2006 to enable the Agreement's entry into force on 1 January 2007.¹⁸
- 4.16 The Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives formal notification through diplomatic channels of the intention to terminate the agreement. If the Agreement is terminated, the rights are preserved of: those people who are receiving benefits or who have lodged claims and would have been entitled to receive benefits; or who would have lodged claims and would have been entitled to receive benefits under the Agreement. This includes those people affected by double coverage provisions of paragraphs 2 or 3 of Article 9.¹⁹
- 4.17 Article 9 of the Vienna Convention allows for the Agreement to be amended at any time by agreement between the Parties.²⁰

Legislation

- 4.18 A new Schedule containing the full text of the Agreement will be added to the *Social Security (International Agreements) Act 1999* (Cth). The regulation making powers contained in Sections 8 and 25 of that Act will be used to implement the Agreement. In addition, an

17 NIA, para. 37.

18 NIA, para. 2.

19 NIA, para. 41.

20 NIA, para. 39.

amendment has been made to the *Superannuation Guarantee (Administration) Regulations* dealing with bilateral social security agreements to eliminate double superannuation coverage.²¹

4.19 The legislative instruments necessary to bring this Agreement into force are being tabled in Parliament prior to the completion of the JSCOT review process in order to meet the required number of sitting days before implementation on 1 January 2007.²²

4.20 In relation to the early tabling of legislative instruments, FaCSIA informed the Committee:

We have agreed with Norway that we would aim for implementation on 1 January next year, and the agreement itself provides that each side must exchange diplomatic notes advising the other of the completion of all processes in each country before the end of October. In order to do that we have had to overlap the committee's tabling period slightly.²³

Conclusion and recommendation

4.21 While the Committee agrees the Agreement is in Australia's interest, the Committee believes that to meet the Agreement's entry into force of 1 January 2007, FaCSIA should have tabled the treaty text and accompanying NIA earlier.

4.22 Earlier tabling of the NIA and treaty text would have allowed the Committee to review the proposed agreement within an adequate timeframe before the presentation of enabling legislation to Parliament.

Recommendation 3

The Committee supports the *Agreement on Social Security between the Government of Australia and the Government of the Kingdom of Norway (Canberra, 2 December 2005)* and recommends that binding treaty action be taken.

21 NIA, paras 34 and 36.

22 NIA, para. 35.

23 Mr Peter Hutchinson, *Transcript of Evidence*, 19 June 2006, p. 7.