

Agreement between Australia and the Republic of Poland on Social Security

Background

- 4.1 The Agreement between Australia and the Republic of Poland on Social Security (the Agreement) is one of a number of international agreements on social security Australia has entered into, 24 of which have been ratified to date.¹
- 4.2 Australia's international social security agreements are bilateral treaties intended to address gaps in the coverage of certain social security payments to immigrants in Australia who are entitled to receive payments from another country.
- 4.3 This Agreement applies to Australian residents who have established an entitlement to certain types of Polish social security payments, and Polish residents who have established an entitlement to certain types of Australian social security payments.²

1 National Interest Analysis (NIA), Australian Social Security Agreements with Other Countries Attachment.

2 Ms Michelina Stawyskyj, *Transcript of Evidence*, 1 February 2010, p. 8.

Report 108

- 4.4 The Minister for Families, Housing, Community Services and Indigenous Affairs wrote to the Committee proposing an implementation date for the Agreement of 1 October 2010. In order to meet the proposed implementation date, the Minister requested that the Committee consider the Agreement and table a recommendation on binding treaty action before 25 February 2010.
- 4.5 Implementation in Australia requires an amendment to the *Social Security (International Agreements) Act 1999* to include the Agreement as a new Schedule to that Act, followed by the making of relevant legislative instruments, and then an exchange of notes between Australia and Poland to indicate that the formal processes for ratification have taken place.³
- 4.6 The Department of Families, Housing, Community Services and Indigenous Affairs (the Department) appeared before the Committee on 1 February 2010, and on the basis of this hearing, the Committee was satisfied that the request to expedite Committee consideration of the Agreement was in the public interest.
- 4.7 As a consequence, the Committee tabled a one page report (Report 108), including a recommendation that binding treaty action be taken in relation to the Agreement, on 4 February 2010.⁴

The Agreement

- 4.8 The Agreement permits the following to occur:
- people living in one country will be able to lodge a claim for a pension with the other country;⁵
 - qualification periods for the pensions covered will be 'totalised', enabling people to meet the minimum qualification periods for relevant pensions in both countries. Totalising in this instance means treating periods of residence in one of the signatory countries as part of the qualification period for relevant pensions in the other country;⁶

3 NIA, para 17.

4 Report 108 can be accessed here:
<<http://www.aph.gov.au/house/committee/jsct/25november2009/report.htm>>

5 Ms Michelina Stawyskyj, *Transcript of Evidence*, 1 February 2010, p. 8.

6 NIA, para 13.

- remove restrictions on portability of payments for people residing in either country by enabling payments from one country to be made into bank accounts in the other country;⁷ and
 - provide avenues for mutual assistance to help ensure that people are paid their correct entitlements.⁸
- 4.9 In addition, a person who works in both countries will not need to make compulsory retirement benefit contributions in both countries at the same time to retain retirement benefits entitlements.⁹
- 4.10 The Agreement mechanism likely to have the most significant effect relates to the qualification periods. With the addition of periods of residence in Australia to the qualification period for Polish pensions, the Department of Families, Housing, Community Services and Indigenous Affairs believes that many Australian residents who have not previously been entitled to a Polish pension will now meet the qualification period for the Polish pension.¹⁰
- 4.11 The Agreement limits the types of pension subject to these provisions. The Agreement covers:
- the Australian age pension;
 - the Polish age pension;
 - the Polish disability pension; and
 - the Polish survivor's pension.¹¹ A survivor's pension is the pension paid to a spouse or dependant on the death of a person eligible for an age pension.¹²
- 4.12 The Polish disability and survivor pensions will only be available to residents of Poland.¹³
- 4.13 The Department argued that the reason that the age pension was the only Australian pension involved was that the Australian payment was an automatic entitlement upon qualification, whereas the Polish pension

7 Ms Michelina Stawyskyj, *Transcript of Evidence*, 1 February 2010, p. 8.

8 NIA, para 4.

9 NIA, para 5.

10 Mr Peter Hutchison, *Transcript of Evidence*, 1 February 2010, p. 11.

11 Ms Michelina Stawyskyj, *Transcript of Evidence*, 1 February 2010, p. 8.

12 Organisation for Economic Cooperation and Development (OECD) website, <<http://www.oecd.org/dataoecd/50/48/33743823.pdf>>, viewed 12 February 2010.

13 Ms Michelina Stawyskyj, *Transcript of Evidence*, 1 February 2010, p. 8.

system was a contributory system, similar to a superannuation scheme.¹⁴ Although this statement is not strictly true in relation to the survivor's pension,¹⁵ there is no Australian equivalent of this pension, so there is no actual difference between the entitlements of Australian and Polish residents covered by the Agreement.

Payment arrangements

- 4.14 Where an Australian resident is entitled to a pension from Poland, their full entitlement to the Polish pension will be paid. That person's entitlement to the Australian pension will then be calculated based on the Australian social security income test.¹⁶
- 4.15 The Department estimates that the number of Polish residents eligible for an Australian pension numbers in the hundreds. On the other hand, the number of Australian residents currently eligible for Polish pensions numbers could be between 18,000 and 21,000.¹⁷
- 4.16 If this number of Australian residents become eligible for the Polish pension, the reduction in Australian pension payments will be significant. The National Interest Analysis indicates that the Agreement is expected to reduce administered outlays by \$19.721 million over the forward estimates to 2012-13.¹⁸

Conclusion

- 4.17 There can be no doubt that the Agreement represents a significant benefit to both Australia and to those who will be eligible to receive a pension to which they have not previously been entitled. The Department of Families, Housing, Community Services and Indigenous Affairs believes that, because of the effect of the social security income test, the number who will be adversely impacted by this Agreement is very small.¹⁹

14 Mr Peter Hutchison, *Transcript of Evidence*, 1 February 2010, p. 10.

15 Organisation for Economic Cooperation and Development (OECD) website, <<http://www.oecd.org/dataoecd/50/48/33743823.pdf>>, viewed 12 February 2010.

16 Mr Peter Hutchison, *Transcript of Evidence*, 1 February 2010, p. 11.

17 Mr Peter Hutchison, *Transcript of Evidence*, 1 February 2010, p. 10.

18 NIA, para 19.

19 Mr Peter Hutchison, *Transcript of Evidence*, 1 February 2010, p. 12.

4.18 Given the positive effect predicted, the Committee has no hesitation in endorsing its earlier decision to recommend binding treaty action.

