

1985-86

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 20 August 1986

(*Minister for Social Security*)

A BILL

FOR

An Act relating to social security

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 **1.** (1) This Act may be cited as the *Social Security Amendment (Reciprocity with Italy) Act 1986*.

 (2) The *Social Security Act 1947*¹ is in this Act referred to as the Principal Act.

Commencement

10 **2.** (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

 (2) Sections 5 and 6 shall be deemed to have come into operation on 1 July 1986.

Interpretation

3. Section 6 of the Principal Act is amended—

(a) by omitting “or” (last occurring) from paragraph (u) of the definition of “income” in sub-section (1); and

(b) by adding at the end of that definition the following word and paragraph: 5

“or (w) so much of a payment received by the person as is, in accordance with an agreement between the Commonwealth and a foreign country, applied in reduction of the amount of pension, benefit or allowance that would otherwise be payable to the person under this Act;” 10

Insertion of heading

4. Before section 83AA of the Principal Act the following heading is inserted: 15

“Division 1—Portability of Pensions”.

Interpretation

5. Section 83AA of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Where a person who is in receipt of an age pension or an invalid pension is— 20

(a) a married person whose spouse is in receipt of an age pension or an invalid pension; or

(b) an unmarried person who was formerly a married person where, immediately before the time when the person ceased to be a married person, the person and the person’s former spouse were each in receipt of an age pension or an invalid pension, 25

the period of residence in Australia of the person shall, for the purposes of this Part, be taken to be—

(c) in a case to which paragraph (a) applies—the period of residence in Australia of the person or the person’s spouse, whichever is the longer; or 30

(d) in a case to which paragraph (b) applies—the period of residence in Australia of the person, or the period of residence in Australia of the person’s former spouse at the time referred to in paragraph (b), whichever is the longer.”. 35

Rate of pension payable outside Australia

6. Section 83AC of the Principal Act is amended—

(a) by omitting from sub-section (2) “or 24A”; and

(b) by inserting in paragraph (5) (d) “or 61A” after “section 60”. 40

7. After section 83AF of the Principal Act the following Division is inserted:

“Division 2—Reciprocal Agreements

Reciprocal Agreements

5 “83AG. (1) In this section, ‘reciprocal agreement’ means an agreement between the Commonwealth and a foreign country relating to reciprocity in social security matters, being an agreement the text of which is set out in the Schedule.

10 “(2) On and after the day on which a reciprocal agreement enters into force, the provisions of that agreement, in so far as those provisions remain in force and affect the operation of this Act, have effect notwithstanding anything in this Act.”.

8. The Principal Act is amended by adding at the end the following Schedule:

“SCHEDULE Section 83AG
Reciprocal agreements
AGREEMENT
BETWEEN
AUSTRALIA
AND
THE REPUBLIC OF ITALY
PROVIDING FOR RECIPROCITY IN MATTERS
RELATING TO SOCIAL SECURITY

Australia and the Republic of Italy,
Wishing to strengthen the existing friendly relations between the two countries, and
Desiring to co-ordinate the operation of their respective social security systems and to enhance the equitable access by people who move between Australia and Italy to social security benefits provided for under the laws of both countries,
Have agreed as follows:

PART I—INTERPRETATION AND SCOPE

ARTICLE 1

Interpretation

1. In this Agreement, unless the context otherwise requires:
 - (a) “Australian benefit” means a benefit referred to in Article 2 in relation to Australia;
 - (b) “benefit” means Australian benefit or Italian benefit;

- (c) “competent authority” means, in the case of Australia, the Secretary to the Department of Social Security or an authorised representative of the Secretary and, in the case of Italy, the Ministry of Labour and Social Welfare;
 - (d) “dependants” means, in relation to Italy, persons who are within the categories of family members of a person insured, or of a pensioner, under the social security laws of Italy and who are recognized, by those laws, as the dependants of such a person or pensioner;
 - (e) “institution”, in relation to a Contracting Party, means an institution apart from a competent authority which is responsible for the application of this Agreement in respect of that Contracting Party as specified in administrative arrangements made from time to time pursuant to Article 19;
 - (f) “Italian benefit” means a benefit payable under the social security laws of Italy;
 - (g) “Italian supplement” means a supplement paid in order to increase the amount of a benefit, derived from credited contributions and payable to a person, to the minimum amount specified for that benefit in the social security laws of Italy;
 - (h) “month” means calendar month;
 - (i) “period of Australian residence during working life”, in relation to a person, means the period, or the aggregate of the periods, during which that person has been a resident of Australia, other than any period—
 - (a) during which the person had not attained the age of 16 years; or
 - (b) after the person, being a woman, had attained the age of 60 years or, being a man, had attained the age of 65 years;but does not include any period deemed pursuant to sub-paragraph 1 (c) of Article 7 to be a period in which that person was residing in Australia;
 - (j) “period of credited contributions”, in relation to a person, means a period, or the total of two or more periods, of contributions used to acquire a benefit, and any period deemed to be a period of contributions, under the social security laws of Italy by that person but does not include any period deemed pursuant to sub-paragraph 1 (d) of Article 7 to be a period of credited contributions in Italy;
 - (k) “period of residence in Australia”, in relation to a person, means a period or the total of 2 or more periods, at any time, when that person was residing in Australia for the purposes of the social security laws of Australia, but does not include any period deemed pursuant to sub-paragraph 1 (c) of Article 7 to be a period in which that person was residing in Australia;
 - (l) “social security laws of Australia” means the Social Security Act 1947 of Australia as amended, not including amendments effected by laws made by Australia for the purpose of giving effect to an agreement on social security;
 - (m) “social security laws of Italy” means legislation within the scope of this Agreement, in relation to Italy, by virtue of Article 2;
 - (n) “spouse carer’s pension” means a carer’s pension payable to a husband under the legislation within the scope of this Agreement relating to Australia;
 - (o) “survivors” means, in relation to Italy, persons who are within the categories of family members of a person who was insured or was a pensioner under the social security laws of Italy, and is now deceased, and who are recognized by those laws as survivors of that person or pensioner;
 - (p) “widow” means, in relation to Australia, a de jure widow; and
 - (q) “year” means a period of 365 days or, if that period includes 29 February, 366 days.
2. A reference in this Agreement to additional pensions and mothers’ and guardians’ allowances for children is a reference to increases in the rate of any of the benefits referred to in items (i) to (vi) inclusive of sub-paragraph 1 (a) of Article 2 and paid under provisions of the legislation within the scope of this Agreement in relation to Australia relating to the custody, care and control of a child or children.

3. In the application of this Agreement by a Contracting Party, any term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the legislation within the scope of this Agreement, in relation to that Contracting Party, by virtue of Article 2.

ARTICLE 2

Legislative Scope

1. The legislation within the scope of this Agreement is:
 - (a) in relation to Australia: the Social Security Act 1947 as amended at the date of signature of this Agreement and any legislation that subsequently amends, supplements or replaces that Act, in so far as that Act and that legislation provide for and for all matters in relation to the following benefits:
 - (i) age pensions;
 - (ii) invalid pensions;
 - (iii) pensions payable to widows;
 - (iv) wives' pensions;
 - (v) double orphans' pensions;
 - (vi) spouse carers' pensions; and
 - (vii) additional pensions and mothers' and guardians' allowances for children; and
 - (b) in relation to Italy: the legislation in force at the date of signature of this Agreement and any legislation that subsequently amends, supplements or replaces that legislation, concerning the compulsory general insurance scheme for employees in regard to invalidity, old age and survivors; special insurance schemes for self-employed persons and other categories of workers; family allowances and unemployment insurance, and in particular the following benefits:
 - (i) old age pensions;
 - (ii) seniority pensions;
 - (iii) anticipated pensions;
 - (iv) invalidity allowances;
 - (v) inability pensions;
 - (vi) privileged invalidity allowances;
 - (vii) privileged inability pensions;
 - (viii) invalidity attendance allowance;
 - (ix) survivors' pensions;
 - (x) family allowances for dependants of pensioners; and
 - (xi) unemployment allowances.
2. Notwithstanding the provisions of paragraph 1, the legislation within the scope of this Agreement shall not include any laws made, whether before or after the date of signature of this Agreement, for the purpose of giving effect to any bilateral agreement on social security entered into by either Contracting Party.
3. The competent authorities of the Contracting Parties shall notify each other of legislation that amends, supplements or replaces the legislation within the scope of this Agreement in relation to their respective Contracting Parties, promptly after the first-mentioned legislation is enacted.

ARTICLE 3

Personal Scope

Except as otherwise provided in Articles 4 and 20, this Agreement shall apply to persons who move between Australia and Italy and who are or have been resident in Australia or have been credited with contributions under the social security laws of Italy and, where applicable, to any dependants or survivors of those persons.

ARTICLE 4

Equality of Treatment

1. The citizens of each of the Contracting Parties shall be treated equally in the application of the social security laws of Australia and of Italy, respectively, and in any case in which entitlement to a benefit payable under those laws by a Contracting Party depends, in whole or in part, on citizenship of that Contracting Party, a person who is a citizen of the other Contracting Party shall, for the purposes of a claim for that benefit, be deemed to be a citizen of the first-mentioned Contracting Party.
2. The persons to whom this Agreement applies shall be treated equally by each of the Contracting Parties in regard to rights and obligations which arise by virtue of this Agreement in relation to each Contracting Party.

PART II—RESIDENCE OR PRESENCE OUTSIDE AUSTRALIA FOR
PURPOSES OF QUALIFYING FOR AUSTRALIAN BENEFITS

ARTICLE 5

Residence or Presence in Italy

Where, apart from residing and being physically present in Australia, a person is qualified for an Australian benefit under the social security laws of Australia or by virtue of this Agreement but, on the date on which he or she lodges a claim for that benefit, he or she is:

- (a) residing in Australia and physically present in Italy;
- (b) residing in Italy and physically present in Australia; or
- (c) residing and physically present in Italy,

that person shall be deemed, for the purposes of that claim, to be residing in and physically present in Australia on that date.

ARTICLE 6

Residence or Presence in a Third Country

A person who is a resident of Australia or Italy, or of a third country with which Australia enters into an agreement on social security, and is physically present in that third country may, if that agreement includes provisions for co-operation in the assessment and determination of claims for benefits, lodge in that third country a claim for an Australian benefit, and that person shall, for the purposes of that claim, be deemed to be residing in and physically present in Australia on the date of lodgement of that claim.

PART III—TOTALISATION AND PRO-RATA BENEFITS

ARTICLE 7

Totalisation of Periods of Residence and Periods of Contributions

1. Where a person to whom this Agreement applies has accumulated:
 - (a) a period of residence in Australia that is:
 - (i) less than the period required to qualify him or her, in respect of residence, under the social security laws of Australia for an Australian benefit; and
 - (ii) equal to or greater than the minimum period identified in accordance with paragraph 4 for that person; or
 - (b) a period of credited contributions that is:
 - (i) less than the period required to qualify him or her, in respect of contributions, under the social security laws of Italy for an Italian benefit; and
 - (ii) equal to or greater than the minimum period identified in accordance with paragraph 5 for that benefit,and, on the other hand, has accumulated both a period of Australian residence during working life and a period of credited contributions in Italy which, when added together, are equal to or in excess of the required minimum period specified for that benefit by the legislation that is within the scope of this Agreement in relation to the Contracting Party by whom the benefit may be payable, then:
 - (c) for the purposes of a claim for that Australian benefit, the last-mentioned period of credited contributions shall be deemed to be a period in which that person was residing in Australia; and
 - (d) for the purposes of a claim for that Italian benefit, that period of Australian residence during working life shall be deemed to be a period of credited contributions in Italy.
2. Where a person to whom paragraph 1 applies:
 - (a) has resided continuously in Australia for a period which is less than the minimum period of continuous residence required by the social security laws of Australia for entitlement of that person to an Australian benefit; and
 - (b) has accumulated a period of credited contributions in 2 or more separate periods that exceed in total the minimum period referred to in sub-paragraph (a),
the total of the periods of credited contributions shall be deemed to be one continuous period and, by virtue of sub-paragraph 1 (c), a period in which the person was residing continuously in Australia, equivalent to that total.
3. Where a period of residence in Australia and a period of credited contributions in Italy coincide, the period of coincidence shall be taken into account once by each of the Contracting Parties for the purposes of this Article, as follows:
 - (a) for an Australian benefit: as a period of residence in Australia; and
 - (b) for an Italian benefit: as a period of credited contributions.
4. The minimum period of Australian residence during working life to be taken into account for the purposes of paragraph 1 shall be as follows:
 - (a) for the purposes of an Australian benefit that is payable to a person outside Australia: the minimum period required shall be 1 year's residence, of which at least 6 months must be continuous; and
 - (b) for the purposes of an Australian benefit that is payable to a person in Australia: no minimum period shall be required.
5. The minimum period of credited contributions in Italy to be taken into account for the purposes of paragraph 1 shall be as follows:
 - (a) for old age pension: 1 year;

- (b) for anticipated pension: 1 year;
 - (c) for seniority pension: 15 years;
 - (d) for invalidity allowance: 1 year;
 - (e) for inability pension: 1 year;
 - (f) for privileged invalidity allowance: 1 year;
 - (g) for privileged inability pension: 1 year; and
 - (h) for survivor's pension: 1 year.
6. For the purposes of eligibility for voluntary insurance under the social security laws of Italy, a period of credited contributions in Italy in relation to a person shall be combined, where necessary, with any period of Australian residence during working life accumulated by that person, provided that the first-mentioned period totals at least one year.

ARTICLE 8

Australian Pro-Rata Benefits

1. Where an Australian benefit, other than a double orphan's pension, is payable by virtue of this Agreement:
- (a) to a person who is outside Australia: subject to paragraphs 2 and 9, the rate of that benefit shall be determined in accordance with the formula

$$A = \frac{PQ}{300}$$

where

A represents the rate of benefit payable;

Q represents, subject to paragraph 5, the number of whole months, plus one, accumulated in a period of Australian residence during working life by that person, but not exceeding 300;

P represents the rate of Australian benefit that would be payable to that person if:

- (i) he or she were in Australia and were qualified under the social security laws of Australia to receive that benefit;
- (ii) any amount paid to that person as an Italian supplement were not included as income for that person in determining the rate; and
- (iii) the amount of Italian benefit taken into account as income for those same purposes were calculated as follows:

$$Y = \frac{Q}{300} \times I$$

where

Y represents the amount of Italian benefit to be taken into account;

Q represents the same value as set out above in this sub-paragraph; and

I represents the amount of an Italian benefit payable to that person not including the amount of any Italian supplement;

- (b) to a person who is in Australia: the rate of that benefit shall, subject to paragraph 6, be calculated by disregarding, in the computation of his or her income, any Italian benefit, including any Italian supplement, which that person is entitled to receive, and by deducting the amount of that Italian benefit, including that supplement, from the rate of Australian benefit which would otherwise be payable to that person.
2. The rate mentioned in sub-paragraph 1 (a) in relation to the symbol A shall not exceed the rate that would have been payable to that person if he or she had been

in Australia and had met the requirements, in respect of residence, under the social security laws of Australia.

3. Where the rate of a benefit calculated in accordance with sub-paragraph 1 (b) is less than the rate of that benefit which would be payable under sub-paragraph 1 (a) if the person concerned were outside Australia, the first-mentioned rate shall be increased to an amount equivalent to the second-mentioned rate.
4. For the purposes of paragraph 3, a comparison of the rates of a benefit determined in accordance with sub-paragraphs 1 (a) and 1 (b) shall be made as at:
 - (a) the date of the first pension pay day occurring after the date on which the claim for the benefit was lodged; and
 - (b) each anniversary of that pension pay day for so long as the person concerned is entitled to the benefit,using, as the value of the symbol Q in sub-paragraph 1 (a), the number of whole months, plus one, in the period of Australian residence during working life accumulated by the person at the date as at which the comparison is made.
5. In the case of a person and his or her spouse or of a widow, the value to be applied to the symbol Q for the purposes of sub-paragraph 1 (a), in relation to a claim by either that person or each of that person and that spouse, or by that widow, shall be determined in accordance with those provisions of the social security laws of Australia which specify periods of residence for calculating benefits payable to persons outside Australia.
6. For the purposes of sub-paragraph 1 (b), where:
 - (a) one or other, or both, of a person and his or her spouse are entitled to receive an Italian benefit; or
 - (b) a person is entitled to receive an increase in respect of his or her spouse in an Italian benefit payable to that person,the total of the Italian benefits payable to that person and his or her spouse shall be apportioned equally between them and disregarded in the computation of their respective incomes, and the amount so apportioned shall be deducted from the amount of Australian benefit that would otherwise be payable to each of them.
7. In paragraph 6, a reference to a spouse of a person is a reference not only to the de jure spouse of that person but also to a de facto spouse within the meaning of that term under the social security laws of Australia.
8. Sub-paragraph 1 (a) shall not apply to:
 - (a) a person who becomes qualified to receive an invalid pension by virtue of this Agreement where the person became permanently incapacitated for work or permanently blind while in Australia or during a temporary absence from Australia;
 - (b) a widow who becomes qualified to receive a widow's pension by virtue of this Agreement by reason of the death in Australia or during a temporary absence from Australia of the widow's former spouse while the widow and that spouse were residing permanently in Australia; or
 - (c) a person, during any absence of the person from Australia that commences before 1 January 1996, who:
 - (i) becomes eligible to receive an Australian benefit by virtue of this Agreement;
 - (ii) was a resident of Australia or an absent resident on 8 May 1985; and
 - (iii) commences to receive that benefit before 1 January 1996.
9. An Australian benefit that is payable by virtue of this Agreement to a person who:
 - (a) was a resident of Australia or an absent resident on 8 May 1985; and

(b) commences to receive that benefit before 1 January 1996, shall be paid, during any absence of that person from Australia that commences before 1 January 1996, at a rate calculated in accordance with sub-paragraph 1 (b) and paragraph 3.

ARTICLE 9

Italian Pro-Rata Benefits

1. The amount of an Italian benefit payable to a person by virtue of this Agreement through the application of Article 7 shall be determined as follows:
 - (a) the amount of the theoretical benefit to which the person concerned would be entitled shall be established as if the period of credited contributions in Italy, and the period of Australian residence during working life referred to in sub-paragraph 1 (d) of Article 7, and accumulated to the date from which the benefit would be payable, for that person had accumulated under the social security laws of Italy; and
 - (b) the amount of benefit payable shall be that amount which bears to the amount referred to in sub-paragraph (a) the same ratio as that period of credited contributions bears to the sum of that period of credited contributions and that period of Australian residence during working life for that person.
2. If the sum of the periods referred to in sub-paragraph 1 (b) exceeds the maximum period provided for by the social security laws of Italy for entitlement to the maximum rate of the benefit concerned, that maximum period shall be substituted for that sum in calculations made in accordance with that sub-paragraph.
3. The calculation of a rate in relation to a person in accordance with paragraph 1 shall take into account only the salary of that person which was subject to contributions under the social security laws of Italy.

PART IV—PROVISIONS CONCERNING BENEFITS

ARTICLE 10

Payment of Supplementary and Additional Amounts

Where a benefit is payable by a Contracting Party by virtue of this Agreement to or in respect of a person, there shall also be payable any supplement or additional amount that is payable, in addition to that benefit, to or in respect of a person who qualifies for that supplement or additional amount under the social security laws of that Contracting Party.

ARTICLE 11

Unemployment Allowance

For the purposes of eligibility by a citizen of Australia or of Italy for unemployment allowance under the social security laws of Italy, any periods of employment accumulated by that person in Australia, other than periods of self-employment, shall be totalized with periods of credited contributions in Italy for that person, if those last-mentioned periods total one year or more.

ARTICLE 12

Double Orphan's Pension

Where a double orphan's pension is payable under the social security laws of Australia in respect of a child who was orphaned during a period of residence in Australia by

that child, that pension shall, subject to the provisions of those laws, be payable while that child is in Italy to the person who has the custody, care and control of the child.

ARTICLE 13

Family Allowances

Family allowances payable under the social security laws of Italy:

- (a) shall be payable by virtue of this Agreement to persons who are receiving an Italian benefit payable under the social security laws of Italy, whether those persons are citizens of Australia or Italy, and who are residing in Australia; and
- (b) shall not preclude the payment of family allowance under the social security laws of Australia, including those laws as modified or adapted by laws giving effect to an agreement on social security with a third country, and shall for the purposes of reciprocity in relation to this Agreement be regarded as the Italian benefit equivalent to those Australian benefits described as:
 - (c) wives' pensions;
 - (d) spouse carers' pensions; and
 - (e) additional pensions and mothers' and guardians' allowances for children.

ARTICLE 14

Wife's Pension and Spouse Carer's Pension

A person who receives from Australia a wife's pension or a spouse carer's pension by virtue of the fact that the spouse of that person receives, by virtue of this Agreement, an Australian benefit shall, for the purposes of this Agreement and in particular for the purposes of paragraph 6 of Article 8, be deemed to receive that pension by virtue of this Agreement.

PART V—MISCELLANEOUS PROVISIONS

ARTICLE 15

Lodgement of Claims

1. A claim for a benefit, whether payable by virtue of this Agreement or otherwise, may be lodged:
 - (a) in the territory of either of the Contracting Parties in accordance with administrative arrangements made pursuant to Article 19; or
 - (b) in a third country if that country is of the kind referred to in Article 6, at any time after the Agreement enters into force.
2. Where a claim for a benefit of a Contracting Party is lodged in the territory of the other Contracting Party or in a third country in accordance with paragraph 1, the date on which the claim is so lodged shall be the date of lodgement of the claim for all purposes relating to the claim.

ARTICLE 16

Determination of Claims

1. In determining the entitlement of a person to a benefit by virtue of this Agreement:
 - (a) a period of Australian residence during working life and a period of credited contributions; and
 - (b) any event which is relevant to that entitlement,shall, subject to this Agreement, be taken into account in so far as those periods or those events are applicable in regard to that person and whether they were

12 *Social Security Amendment (Reciprocity with Italy)* No. , 1986

accumulated or occurred before or after the date on which this Agreement enters into force.

2. The commencement date for payment of a benefit payable by virtue of this Agreement shall be determined in accordance with the social security laws of the Contracting Party concerned but in no case shall that date be a date earlier than the date on which this Agreement enters into force.
3. (1) Where:
 - (a) a claim is made for a benefit payable by one of the Contracting Parties, whether by virtue of this Agreement or otherwise; and
 - (b) there are reasonable grounds for believing that the claimant may also be entitled, whether by virtue of this Agreement or otherwise, to a benefit (in this Article called "assumed benefit"), that is payable by the other Contracting Party and that, if paid, would affect the amount of the first-mentioned benefit,
that claim may be determined by the first-mentioned Party as if the assumed benefit were in fact being paid to that claimant.
- (2) Where a claim for a benefit is determined in accordance with sub-paragraph (1) and it is subsequently established that the amount of the assumed benefit in relation to that person was not in fact paid, any deficiency in the payment of the first-mentioned benefit shall be adjusted retrospectively.
- (3) In this paragraph and in paragraph 4, "benefit" is not limited to those benefits specified in Article 2.
4. Where:
 - (a) it appears that a person who is entitled to the payment of a benefit by one of the Contracting Parties might also be entitled to the payment of a benefit by the other Contracting Party, in either case whether by virtue of this Agreement or otherwise;
 - (b) the amount of the benefit that might be paid by that other Contracting Party would affect the amount of the benefit payable by the first-mentioned Contracting Party; and
 - (c) the amount that could be due in respect of the benefit by that other Contracting Party, whether by virtue of this Agreement or otherwise, is likely to include an adjustment for arrears of that benefit,
then
 - (d) that other Contracting Party shall, if the first-mentioned Contracting Party so requests, pay the amount of those arrears to the first-mentioned Contracting Party; and
 - (e) the first-mentioned Contracting Party may deduct from the amount of those arrears any excess amount of the benefit paid by it and shall pay any balance remaining to that person.

ARTICLE 17

Exclusion of Italian Supplement from Australian Income Test

Where a person receives both a benefit under the social security laws of Australia, including any laws made for the purpose of giving effect to an agreement on social security other than this Agreement, and an Italian benefit which includes an Italian supplement, that supplement shall not be included as income for the purposes of the social security laws of Australia.

ARTICLE 18

Portability of Benefits

1. Where a benefit is payable by a Contracting Party by virtue of this Agreement that benefit shall be payable within and outside the respective territory of both Contracting Parties.
2. Subject to paragraph 3, the payment of a benefit by a Contracting Party shall be subject to the provisions of this Agreement and of the legislation within the scope of this Agreement in relation to that Contracting Party.
3. The legislation referred to in paragraph 2 in relation to Australia shall not include those provisions which preclude the payment of benefits outside Australia.
4. A benefit payable by a Contracting Party by virtue of this Agreement shall be paid by that Contracting Party, whether the beneficiary is in the territory of the other Contracting Party or outside the respective territory of both Contracting Parties, without deduction for administrative fees and charges.

ARTICLE 19

Administrative Arrangements and Mutual Assistance

1. The competent authorities of the Contracting Parties shall make whatever administrative arrangements are necessary from time to time in order to implement this Agreement, or in relation to any matter arising under their respective social security laws, and, where those arrangements are required to be made on a mutual basis, shall co-operate, both in regard to matters affecting the operation of both social security systems and of each of them.
2. The competent authorities of the Contracting Parties will, at the request of one to the other, assist each other in relation to the implementation of agreements on social security entered into by either of the Contracting Parties with other countries.

ARTICLE 20

Exchange of Information

1. The competent authorities and the institutions of the Contracting Parties shall exchange such information as is necessary for the operation of this Agreement or of the social security laws of the Contracting Parties concerning all matters arising under this Agreement or under those laws.
2. The competent authorities and institutions of the Contracting Parties may exchange information of the kind referred to in paragraph 1 in relation to any person who has lodged a claim for or is in receipt of a benefit and who is outside the categories of persons referred to in Article 3.
3. Any information received by the competent authority or an institution of a Contracting Party pursuant to paragraphs 1 or 2 shall be protected in the same manner as information obtained under the social security laws of that Contracting Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with matters, including the determination of appeals, arising under the provisions of this Agreement or the social security laws of the Contracting Parties and shall be used only for those purposes.
4. In no case shall the provisions of paragraphs 1, 2 and 3 be construed so as to impose on the competent authority or an institution of a Contracting Party the obligation:
 - (a) to carry out administrative measures at variance with the laws or the administrative practice of that or the other Contracting Party; or
 - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party.
5. Unless there are reasonable grounds for believing the contrary, any information received by a competent authority or relevant institution from the competent authority

14 *Social Security Amendment (Reciprocity with Italy)* No. , 1986

or an institution of the other Contracting Party shall be accepted as valid or true, as the case requires.

6. A Contracting Party shall not raise any charges against the other Contracting Party for services of an administrative nature, including services rendered in accordance with Article 19, by that first-mentioned Contracting Party to the other in accordance with this Agreement, but that other Contracting Party shall meet any costs or expenses which are reasonably incurred for those services and are payable to another person or organisation.

ARTICLE 21

Appeals

1. Any person who is affected by a determination, direction, decision or approval made or given by the competent authority or institution of a Contracting Party, in relation to a matter arising by virtue of this Agreement shall have the same rights to the review, by administrative and judicial bodies of that Contracting Party, of that determination, direction, decision or approval as are provided under the domestic laws of that Contracting Party.
2. Documents relating to appeals that may be made to administrative bodies established by, or administratively for the purposes of, the social security laws of one of the Contracting Parties may be lodged in the territory of the other Contracting Party, in accordance with administrative arrangements made pursuant to Article 19 and any documents duly lodged in that manner shall be regarded as duly lodged for the purposes of those laws.
3. The date on which a document is duly lodged in the territory of one of the Contracting Parties in accordance with paragraph 2 shall determine whether that document is lodged within any time limit specified by the laws or administrative practices of the other Contracting Party which govern the appeal concerned.

ARTICLE 22

Review of Agreement

1. The Contracting Parties may agree at any time to review any of the provisions of this Agreement.
2. The Contracting Parties shall appoint representatives to meet as a committee of experts once during each year for the first four years after this Agreement comes into force and to review and report to the competent authorities on the operation and effectiveness of the Agreement, taking into account operational experience and practices in and between the two countries and between either of them and any other country with which either has entered into an agreement on social security.
3. The Contracting Parties shall consult on the further arrangements to review this Agreement and its operations to apply after it has been in force for four years.
4. The administrative arrangements made pursuant to Article 19 shall contain guidance on the role and method of operation of the committee of experts referred to in paragraph 2.
5. (1) In particular, where a Contracting Party enacts legislation that amends, supplements or replaces the legislation within the scope of this Agreement in relation to that Contracting Party, the Contracting Parties shall, if one of them so requests, consult on any matters that arise, as a consequence of that first-mentioned legislation, in relation to the continued operation or possible amendment of this Agreement.
(2) For the purposes of the consultations referred to in sub-paragraph (1), the Contracting Parties may direct the committee of experts referred to in paragraph 2

to meet and report on matters which the Contracting Parties require to be considered by the committee.

PART VI—FINAL PROVISIONS

ARTICLE 23

Entry Into Force

1. This Agreement shall be ratified by both Contracting Parties according to their respective procedures and shall enter into force on the first day of the month next following the month in which the instruments of ratification are exchanged.
2. Immediately upon this Agreement entering into force, the Agreement made on 2 November 1972 between the Government of the Commonwealth of Australia and the Government of the Republic of Italy in relation to portability of pensions between Australia and Italy shall terminate.

ARTICLE 24

Termination

1. Subject to paragraph 2, this Agreement shall remain in force until the expiration of 12 months from the date on which either Contracting Party receives from the other written notice through the diplomatic channel of the intention of the other Contracting Party to terminate this Agreement.
2. In the event that this Agreement is terminated in accordance with paragraph 1, the Agreement shall continue to have effect in relation to all persons who:
 - (a) at the date of termination, are in receipt of benefits; or
 - (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits, by virtue of this Agreement.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Rome the 23rd day of April 1986 in the English and Italian languages, both texts being equally authoritative.

FOR AUSTRALIA

Bob Hawke

FOR THE REPUBLIC
OF ITALY

B. Craxi

NOTE

1. No. 26, 1947, as amended. For previous amendments, see Nos. 38 and 69, 1948; No. 16, 1949; Nos. 6 and 26, 1950; No. 22, 1951; Nos. 41 and 107, 1952; No. 51, 1953; No. 30, 1954; Nos. 15 and 38, 1955; Nos. 67 and 98, 1956; No. 46, 1957; No. 44, 1958; No. 57, 1959; No. 45, 1961; Nos. 1 and 95, 1962; No. 46, 1963; Nos. 3 and 63, 1964; Nos. 57 and 152, 1965; No. 41, 1966; Nos. 10 and 61, 1967; No. 65, 1968; No. 94, 1969; Nos. 2 and 59, 1970; Nos. 16 and 67, 1971; Nos. 1, 14, 53 and 79, 1972; Nos. 1, 26, 48, 103 and 216, 1973; Nos. 2, 23 and 91, 1974; Nos. 34, 56, 101 and 110, 1975; Nos. 26, 62 and 111, 1976; No. 159, 1977; No. 128, 1978; No. 121, 1979 (as amended by Nos. 37 and 98, 1982); No. 130, 1980; Nos. 61 and 170, 1981; No. 159, 1981 (as amended by No. 98, 1982); Nos. 37, 38 and 148, 1982; Nos. 4 and 36, 1983; No. 69, 1983 (as amended by No. 78, 1984); Nos. 46, 78, 93, 120, 134 and 165, 1984; and Nos. 24, 52, 95, 127 and 169, 1985; and Nos. 5, 27 and 33, 1986.

