

Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self employed persons, to self-employed persons and to their families moving within the Community (Consolidated version — OJ No L 28 of 30. 1. 1997, p. 1See annex B. ) (repealed)

### TITLE III

#### **IMPLEMENTATION OF THE PROVISIONS OF THE REGULATIONS FOR DETERMINING THE LEGISLATION APPLICABLE**

##### *Implementation of Articles 13 to 17 of the Regulation*

##### *Article 10b (9)*

#### **Formalities pursuant to Article 13 (2) (f) of the Regulation**

The date and conditions on which the legislation of a Member State ceases to be applicable to a person referred to in Article 13 (2) (f) of the Regulation shall be determined in accordance with that legislation. The institution designated by the competent authority of the Member State whose legislation becomes applicable to the person shall apply to the institution designated by the competent authority of the former Member State with a request to specify this date.

##### *<sup>F1</sup>Article 10c*

#### **Formalities laid down in the event of the application of Article 13(2) (d) of the Regulation to civil servants and persons treated as such**

For the application of Article 13(2)(d), the institution designated by the competent authority of the Member State whose legislation is applicable shall issue a certificate stating that the civil servant or the person treated as such is subject to its legislation.]

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#### **Textual Amendments**

- F1** Inserted by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulations (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71.

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*Status: Point in time view as at 12/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 574/72 (repealed), TITLE III. (See end of Document for details)*

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### *Article 11*

#### **Formalities in the case of the posting elsewhere of an employed person pursuant to Articles 14 (1) and 14b (1) of the Regulation and in the case of Agreements concluded under article 17 of the Regulation**

1 The institutions designated by the competent authority of the Member State whose legislation is to remain applicable shall issue a certificate stating that an employed person shall remain subject to that legislation up to a specific date:

- a at the request of the employed person or his employer in cases referred to in Articles 14 (1) and 14b (1) of the Regulation;
- b in cases where article 17 of the Regulation applies.

2 The consent provided for in cases referred to in Articles 14 (1) (b) and 14b (1) of the Regulation shall be requested by the employer.

### *Article 11a*

#### **Formalities pursuant to Articles 14a (1) and 14b (2) of the Regulation and in the case of Agreements concluded under Article 17 of the Regulation in the case of work carried out in the territory of a Member State other than that in which the person concerned is normally self-employed**

1 The institution designated by the competent authority of the Member State whose legislation is to remain applicable shall issue a certificate stating that the self-employed person shall remain subject to that legislation up to a specified date:

- a at the request of the self-employed person in cases referred to in Articles 14a (1) and 14b (2) of the Regulation;
- b in cases where Article 17 of the Regulation applies.

2 The consent provided for in cases referred to in Articles 14a (1) and 14b (2) of the Regulation shall be requested by the self-employed person.

### *Article 12*

#### **Special provisions concerning insurance of employed persons under the German social security scheme**

Where, under the terms of Articles 13 (2) (a), 14 (1) and (2) or 14b (1) of the Regulation, or under an agreement concluded pursuant to Article 17 of the Regulation, German legislation applies to a person employed by an undertaking or employer whose registered office or place of business is not situated on German territory, and the person concerned has no fixed job on German territory, this legislation shall apply as if the person concerned were employed in his place of residence on German territory.

If the employed person has no residence on German territory, German legislation shall apply as if he were employed in a place for which the Allgemeine Ortskrankenkasse Bonn (Local General Sickness Fund of Bonn), Bonn, is competent.

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*Article 12 a (5)*

**[<sup>F2</sup>Rules applicable in respect of the persons referred to in Article 14(2) and (3), Article 14a(2) to (4) and Article 14c of the Regulation who normally carry out an employed or self-employed activity in the territory of two or more Member States]**

[<sup>F2</sup>For the application of the provisions of Article 14(2) and (3), Article 14a(2) to (4) and Article 14c of the Regulation, the following rules shall apply:]

1. (a) A person who normally pursues his activity in the territory of two or more Member States or in an undertaking which has its registered office or place of business in the territory of one Member State and which straddles the common frontier of two Member States, or who is employed simultaneously in the territory of one Member State and self-employed in the territory of another Member State shall notify this situation to the institution designated by the competent authority of the Member State in the territory of which he resides.
- (b) Where the legislation of the Member State in the territory of which the person resides is not applicable to him, the institution designated by the competent authority of that Member State shall in turn notify the situation to the institution designated by the competent authority of the Member State whose legislation is applicable.
- 1(a) [<sup>F1</sup>Where, in accordance with Article 14(2)(a) of the Regulation, a person who is a member of the travelling or flying personnel of an international transport undertaking is subject to the legislation of the Member State in whose territory the registered office or place of business of the undertaking, or the branch or permanent establishment employing him, is located, or where he resides and is predominantly employed, the institution designated by the competent authority of that Member State shall issue to the person concerned a certificate stating that he is subject to its legislation.]
2. (a) Where, in accordance with Article 14 (2) (b) (i) or the first sentence of paragraph 2 of Article 14a of the Regulation, a person who is normally employed or self-employed in the territory of two or more Member States and who pursues part of his activity in the Member State in whose territory he resides is subject to the legislation of that Member State, the institution designated by the competent authority of that Member State shall issue to the person concerned a certificate stating that he is subject to its legislation and shall send a copy thereof to the institution designated by the competent authority of any other Member State:
  - (i) in the territory of which the person concerned pursues a part of his activity,  
and/or
  - (ii) if he is an employed person, in the territory of which an undertaking or an employer by whom he is employed has its registered office or place of business.
- (b) The latter institution shall, where necessary, send to the institution designated by the competent authority of the Member State whose legislation is applicable the information necessary to assess the contributions for which

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the employer or employers and/or the person concerned are liable by virtue of that legislation.

3. (a) Where, in accordance with Article 14 (3) or 14a (3) of the Regulation, a person who is employed in the territory of one Member State by an undertaking which has its registered office or place of business in the territory of another Member State and which straddles the common frontier of those States, or who is self-employed in such an undertaking, is subject to the legislation of the Member State in whose territory the undertaking has its registered office or place of business, the institution designated by the competent authority of the latter Member State shall issue to the person concerned a certificate stating that he is subject to its legislation and shall send a copy thereof to the institution designated by the competent authority of any other Member State:
  - (i) in the territory of which the person concerned is employed or self-employed;
  - (ii) in the territory of which the person concerned resides.
- (b) Paragraph 2 (b) above shall apply by analogy.
4. (a) Where, in accordance with Article 14 (2) (b) (ii) of the Regulation, an employed person who does not reside in the territory of any of the member States in which he is pursuing his activity is subject to the legislation of the Member State in whose territory is situated the registered office or place of business of the undertaking or individual employing him, the institution designated by the competent authority of the latter Member State shall issue to the employed person a certificate stating that he is subject to its legislation and shall send a copy thereof to the institution designated by the competent authority of any other Member State:
  - (i) in the territory of which the employed person pursues a part of his activity;
  - (ii) in the territory of which the employed person resides.
- (b) Paragraph 2 (b) above shall apply by analogy.
5. (a) Where, in accordance with the provisions of the second sentence of paragraph 2 of Article 14a of the Regulation, a person who is normally self-employed in the territory of two or more Member States, but who does not pursue any part of his activity in the territory of the Member State in which he resides, is subject to the legislation of the Member State in whose territory he pursues his principal activity, the institution designated by the competent authority of the Member State in the territory of which he resides shall forthwith inform the institution designated by the competent authorities of the other Member States concerned.
- (b) The competent authorities of the Member States concerned or the institutions designated by those competent authorities shall by common agreement determine the legislation applicable to the person concerned, account being taken of the provisions of subparagraph (d) and, where appropriate, of the provisions of Article 14a (4) of the Regulation, within a period of not more than six months counting from the day on which the situation of the person concerned was notified to one of the institutions concerned.

- (c) The institution administering the legislation that has been determined as being applicable to the person concerned shall issue a certificate to that person showing that he is subject to that legislation and shall send a copy thereof to the other institutions concerned.
  - (d) For the purpose of determining, in pursuance of the third sentence of Article 14a (2) of the Regulation, the principal activity of the person concerned, account shall be taken first and foremost of the locality in which the fixed and permanent premises from which the person concerned pursues his activities is situated. Failing this, account shall be taken of criteria such as the usual nature or the duration of the activities pursued, the number of services rendered and the income arising from those activities.
  - (e) The institution concerned shall exchange all information necessary to determine both the principal activity of the person concerned and the contributions payable under the legislation that has been determined as being applicable to him.
6. (a) Without prejudice to paragraph 5, and in particular to subparagraph (b) thereof, if an institution designated by the competent authority of the Member State whose legislation would be applicable by virtue of Article 14a (2) or (3) of the Regulation establishes that the provisions of paragraph 4 of the said Article apply in the case of the person concerned, it shall notify the competent authorities of the other Member States concerned or the institutions designated by those authorities; where necessary, the legislation to be applicable to the person concerned shall be decided on by common agreement.
- (b) The information referred to in paragraph 2 (b) above shall be sent by the other institutions concerned to the institutions designated by the competent authority of the Member State whose legislation is determined to be applicable.
7. (a) Where, in accordance with Article 14c (a) of the Regulation, a person who is employed simultaneously in the territory of one Member State, and is self-employed in the territory of another Member State, is subject to the legislation of the Member State in whose territory he is engaged in paid employment, the institution designated by the competent authority of the latter Member State shall issue to the employed person a certificate stating that he is subject to its legislation and shall send a copy thereof to the institution designated by the competent authority of any other Member State:
- (i) in the territory of which that person is self-employed;
  - (ii) in the territory of which that person resides.
- (b) Paragraph 2 (b) above shall apply by analogy.
8. Where, in accordance with the provisions of Article 14 14c (b) of the Regulation, a person who is simultaneously employed in the territory of one Member State and self-employed in the territory of another Member State is subject to the legislation of two Member States, the provisions of points 1, 2, 3 and 4 shall be applicable in respect of paid employment, and the provisions of points 1, 2, 3, 5 and 6 shall be applicable *mutatis mutandis* in respect of self-employment.

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The institution designated by the competent authorities of the two Member States, whose legislation is determined to be applicable, shall inform each other accordingly.

#### Textual Amendments

- F1** Inserted by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulations (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71.
- F2** Substituted by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulations (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71.

### *l<sup>F3</sup> Article 12b*

#### **Rules applicable in respect of persons referred to in Articles 14e or 14f of the Regulation**

The provisions of Article 12a(1), (2), (3) and (4) shall apply by analogy to those persons covered by Articles 14e or 14f of the Regulation. In cases covered by Article 14f of the Regulation, the institution designated by the competent authorities of the Member States whose legislation is determined to be applicable shall inform each other accordingly.]

#### Textual Amendments

- F3** Inserted by Council Regulation (EC) No 1606/98 of 29 June 1998 amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 with a view to extending them to cover special schemes for civil servants.

### *Article 13*

#### **Exercise of the right of option by persons employed by diplomatic missions and consular posts**

1 The right of option provided for in Article 16 (2) of the Regulation must be exercised in the first instance within the three months following the date on which the employed person was engaged by the diplomatic mission or consular post concerned, or on which he entered into the personal service of agents of such mission or post. The option shall take effect on the date of entry into employment.

When the person concerned renews his right of option at the end of a calendar year, the option shall take effect on the first day of the following calendar year.

2 The person concerned who exercises his right of option shall inform the institution designated by the competent authority of the Member State for whose legislation he has opted, at the same time notifying his employer thereof. The said institution shall, where necessary,

forward such information to all other institutions of the same Member State, in accordance with directives issued by the competent authority of that Member State.

3 The institution designated by the competent authority of the Member State for whose legislation the person concerned has opted shall issue to him a certificate testifying that he is subject to the legislation of that Member State while he is employed by the diplomatic mission or consular post in question or in the personal service of agents of such mission or post.

4 Where the person concerned has opted for German legislation to be applied, the provisions of that legislation shall be applied as though he were employed in the place where the German Government has its seat. The competent authority shall designate the competent sickness insurance institution.

#### *Article 14*

#### **Exercise of right of option by auxiliary staff of the European Communities**

1 The right of option provided for in Article 16 (3) of the Regulation must be exercised at the time when the contract of employment is concluded. The authority empowered to conclude such contract shall inform the institution designated by the competent authority of the Member State for whose legislation the auxiliary staff member has opted. The said institution shall, where necessary, forward such information to all other institutions of the same Member State.

2 The institution designated by the competent authority of the Member State for whose legislation the auxiliary staff member has opted shall issue to him a certificate testifying that his is subject to the legislation of that Member State while he is employed by the European Communities as an auxiliary staff member.

3 The competent authorities of the Member States shall, where necessary, designate the competent institutions in respect of members of the auxiliary staff of the European Communities.

4 Where an auxiliary staff member, employed in the territory of a Member State other than Germany, has opted for German legislation to be applied, the provisions of that legislation shall be applied as though the auxiliary staff member were employed in the place where the German Government has its seat. The competent authority shall designate the competent sickness insurance institution.

**Status:**

Point in time view as at 12/04/2007.

**Changes to legislation:**

There are currently no known outstanding effects for the Council Regulation (EEC) No 574/72 (repealed), TITLE III.