

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to their families moving within the Community (Consolidated version — OJ No L 28 of 30. 1. 1997, p. 1See annex B. ) (repealed)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 IV

### **IMPLEMENTATION OF THE SPECIAL PROVISIONS OF THE REGULATION RELATING TO THE VARIOUS CATEGORIES OF BENEFITS**

#### CHAPTER 1

#### **GENERAL RULES FOR THE AGGREGATION OF PERIODS**

##### *Article 15 (A) (5) (11)*

1 In the cases referred to in Articles 18 (1), 38, 45 (1) to (3), 64, and 67 (1) and (2) of the Regulation, aggregation of periods shall be effected in accordance with the following rules:

- a To periods of insurance or residence completed under the legislation of one Member State shall be added periods of insurance or residence completed under the legislation of any other Member State, to the extent that this is necessary to have recourse thereto in order to supplement periods of insurance or residence completed under the legislation of the first Member State for the purpose of acquiring, retaining, or recovering the rights to benefits, provided that such periods of insurance or residence do not overlap. Where benefits in respect of invalidity, old age or death (pensions) are to be awarded by the institutions of two or more Member States in accordance with the provisions of Article 46 (2) of the Regulation, each of the institutions concerned shall effect a separate aggregation, by taking into account the whole of the periods of insurance or residence completed by the employed or self-employed person under the legislations of all the Member States to which he has been subject, without prejudice, where appropriate, to the provisions of Article 45 (2) and (3) and Article 47 (1) (a) of the Regulation. [F<sup>1</sup>Nevertheless, in the cases referred to in Articles 14c(b) or 14f of the Regulation, the abovementioned institutions shall likewise take account, for the award of benefits, of the periods of insurance or of residence completed under an obligatory insurance scheme under the legislation of the Member States in question which overlap each other.]
- b When a period of insurance or residence completed under compulsory insurance under the legislation of one Member State coincides with a period of insurance completed under voluntary or optional continued insurance under the legislation of another Member State, only the period completed under compulsory insurance shall be taken into account.
- c When a period of insurance or residence, other than a period treated as such, completed under the legislation of one Member State coincides with a period treated as such under the legislation of another Member State, only the period other than a period treated as such shall be taken into account.
- d Any period treated as such under the legislations of two or more Member States shall be taken into account only by the institution of the Member State under whose legislation the insured person was last compulsorily insured prior to the said period; where the insured person has not been compulsorily insured under the legislation of a Member

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State before the said period, the latter shall be taken into account by the institution of the Member State under whose legislation he was compulsorily insured for the first time after the said period.

- e Where it is not possible to determine accurately the period of time in which certain periods of insurance or residence were completed under the legislation of one Member State, such periods shall be presumed not to overlap with periods of insurance or residence completed under the legislation of another Member State and shall, where advantageous, be taken into account.
- f Where under the legislation of one Member State certain periods of insurance or residence are taken into account only if they have been completed within a specified time limit, the institution which administers such legislation shall:
  - (i) only take into account periods of insurance or residence completed under the legislation of another Member State if they were completed within the said time limit,
  - (ii) extend such a time limit for the duration of periods of insurance or residence completed wholly or partly within the said time limit under the legislation of another Member State, where the periods of insurance or residence involved under the legislation of the second Member State give rise only to the suspension of the time limit within which the periods of insurance or residence must be completed.

2 Periods of insurance or residence completed under the legislation of a Member State to which the Regulation does not apply, but which are taken into account under the legislation of that Member State to which the Regulation does apply, shall be considered as periods of insurance or residence to be taken into account for the purposes of aggregation.

3 When periods of insurance completed under the legislation of one Member State are expressed in units different from those used by the legislation of another Member State, the conversion necessary for the purposes of aggregation shall be carried out according to the following rules:

- a Where the person concerned is an employed person who has been subject to a six-day week or if he is self-employed:
  - (i) one day shall be equivalent to eight hours and vice versa;
  - (ii) six days shall be equivalent to one week and vice versa;
  - (iii) 26 days shall be equivalent to one month and vice versa;
  - (iv) three months or 13 weeks or 78 days shall be equivalent to one quarter and vice versa;
  - (v) for the conversion of weeks into months and vice versa the weeks and months shall be converted into days;
  - (vi) the application of the preceding rules shall not have the effect of producing, for the sum total of the periods of insurance completed during one calendar year, a total exceeding 312 days or 52 weeks or 12 months or four quarters.
- b If the person concerned is an employed person who has been subject to a five-day week:
  - (i) one day shall be equivalent to nine hours and vice versa;
  - (ii) five days shall be equivalent to one week and vice versa;

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

- (iii) 22 days shall be equivalent to one month and vice versa;
  - (iv) three months or 13 weeks or 66 days shall be equivalent to one quarter and vice versa;
  - (v) for the conversion of weeks into months and vice versa, the weeks and the months shall be converted into days;
  - (vi) the application of the preceding rules shall not have the effect of producing, for the sum total of the periods of insurance completed during one calendar year, a total exceeding 264 days or 52 weeks or 12 months for four quarters.
- c If the person concerned is an employed person who has been subject to a seven-day week:
- (i) one day shall be equivalent to six hours and vice versa;
  - (ii) seven days shall be equivalent to one week and vice versa;
  - (iii) thirty days shall be equivalent to one month and vice versa;
  - (iv) three months or 13 weeks or 90 days shall be equivalent to one quarter and vice versa;
  - (v) for the conversion of weeks into months and vice versa, the weeks and the months shall be converted into days;
  - (vi) the application of the preceding rules shall not have the effect of producing, for the sum total of the periods of insurance completed during one calendar year, a total exceeding 360 days or 52 weeks or 12 months for four quarters.

Where the periods of insurance completed under the laws of a Member State are expressed in months, the days which correspond to a fraction of a month, in accordance with the conversion rules set out in this paragraph, are considered as an entire month.

#### **Textual Amendments**

- F1** Substituted 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.](#)

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## CHAPTER 2

### SICKNESS AND MATERNITY

#### *Implementation of Article 18 of the Regulation*

##### *Article 16*

#### **Certification of periods of insurance**

1 In order to invoke the provisions of Article 18 of the Regulation, an employed or self-employed person shall submit to the competent institution a certified statement specifying the periods of insurance completed under the legislation to which he was last subject.

2 This certified statement shall be issued at the request of the employed or self-employed person by the institution or institutions of the Member State to whose legislation he was last subject. If he does not submit the said certified statement, the competent institution shall obtain it from the institution or institutions concerned.

3 The provisions of paragraph 1 and 2 shall apply by analogy if it is necessary to take into account periods of insurance previously completed under the legislation of any other Member State in order to satisfy the conditions of the legislation of the competent State.

#### *Implementation of Article 19 of the Regulation*

##### *Article 17 (14)*

#### **Benefits in kind in the case of residence in a Member State other than the competent State**

1 In order to receive benefits in kind under Article 19 of the Regulation, an employed or self-employed person must register himself and the members of his family with the institution of his place or residence by submitting a certified statement testifying that he and the members of his family are entitled to the said benefits. This certified statement, based upon information supplied by the employer, where appropriate, shall be issued by the competent institution. If the employed or self-employed person or the members of his family do not submit the said certified statement the institution of the place of residence shall obtain it from the competent institutions.

2 That certified statement shall remain valid until the institution of the place of residence receives notification of its cancellation. However, where the said certified statement has been issued by a German, French, Italian or Portuguese institution, it shall be valid only for a period of one year following the date on which it was issued and must be renewed every year.

3 If the person concerned is a seasonal worker, the certified statement referred to in paragraph 1 shall be valid for the whole of the expected duration of the seasonal work, unless, in the meanwhile, the competent institution notifies the institution of the place of residence of its cancellation.

4 The institution of the place of residence shall inform the competent institution of every registration effected in accordance with the provisions of paragraph 1.

*Status: Point in time view as at 25/02/2008.*

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5 Upon each application for benefits in kind, the person concerned shall submit the supporting documents required for the granting of benefits in kind under the legislation of the Member State in whose territory he resides.

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8 The employed or self-employed person or the members of his family shall inform the institution of the place of residence of any change in their situation which is likely to alter their entitlement to benefits in kind, in particular any cessation or change of the employment or self-employment of the person concerned or any transfer of residence or stay of the employed or self-employed person or of a member of his family. Likewise, should the employed or self-employed person cease to be insured or cease to be entitled to benefits in kind, the competent institution shall inform the institution of the place of residence accordingly. The institution of the place of residence may, at any time, request the competent institution to supply it with any information relating to the employed or self-employed person's insurance or to his entitlement to benefits in kind.

9 Two or more Member States or the competent authorities of those Member States may, having received the opinion of the Administrative Commission, agree on other implementing provisions.

**Textual Amendments**

**F2** Deleted by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures (Text with relevance for the EEA and for Switzerland).

*Article 18*

**Cash benefits in the case of residence in a Member State other than the competent State**

1 In order to receive cash benefits under Article 19 (1) (b) of the Regulation an employed or self-employed person shall, within three days of commencement of the incapacity for work, apply to the institution of the place of residence by submitting a notification of having ceased work, or, if the legislation administered by the competent institution or by the institution of the place of residence so provides, a certificate of incapacity for work issued by the doctor providing treatment for the person concerned.

2 Where the doctors providing treatment in the country of residence do not issue certificates of incapacity for work, the person concerned shall apply directly to the institution of the place of residence within the time limit fixed by the legislation which it administers.

That institution shall immediately have the incapacity for work medically confirmed and the certificate referred to in paragraph 1 drawn up. Such certificate shall state the probable duration of the incapacity and shall be forwarded to the competent institution forthwith.

3 In cases where paragraph 2 does not apply, the institution of the place of residence shall, as soon as possible and in any event within the three days following the date on which

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the person concerned applied to it, have him medically examined as if he were insured with that institution. The report of the examining doctor shall indicate, in particular, the probable duration of the incapacity for work, and shall be forwarded to the competent institution by the institution of the place of residence within the three days following the date of the examination.

4 The institution of the place of residence shall subsequently carry out any necessary administrative checks or medical examination of the person concerned as if he were insured with that institution. As soon as it establishes that the person concerned is fit to resume work, it shall forthwith notify him and the competent institution accordingly, stating the date on which his incapacity for work ceased. Without prejudice to the provisions of paragraph 6, the notification to the person concerned shall be treated as a decision taken on behalf of the competent institution.

5 In all cases the competent institution shall reserve the right to have the person concerned examined by a doctor of its own choice.

6 If the competent institution decides to withhold the cash benefits because the person concerned has not completed the formalities laid down by the legislation of the country of residence, or if it establishes that the person concerned is fit to resume work, it shall notify the person concerned of its decision and shall simultaneously send a copy of such decision to the institution of the place of residence.

7 When the person concerned resumes work, he shall notify the competent institution accordingly, if such notification is required by the legislation administered by that institution.

8 The competent institution shall pay cash benefits by the appropriate method, in particular by international money order, and shall inform the institution of the place of residence and the person concerned accordingly. Where cash benefits are paid by the institution of the place of residence on behalf of the competent institution, the latter shall inform the person concerned of his rights and shall notify the institution of the place of residence of the amount of the cash benefits, the dates for payment, and the maximum period during which they should be granted, in accordance with the legislation of the competent State.

9 Two or more Member States, or the competent authorities of those Member States may, having received the opinion of the Administrative Commission, agree on other implementing provisions.

#### *Implementation of Article 20 of the Regulation*

#### *Article 19*

#### **Special provisions for frontier workers and members of their families**

In the case of frontier workers or members of their families, medicinal products, bandages, spectacles and small appliances may be issued, and laboratory analyses and tests carried out, only in the territory of the Member State in which they were prescribed, in accordance with the provisions of the legislation of that Member State, except where the legislation administered by the competent institution or an agreement concluded between the Member States concerned or the competent authorities of those Member States is more favourable.

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*Application of the second indent of Article 21 (2) of the Regulation*

*Article 19a (15)*

**Benefits in kind in the event of a stay in the competent State —  
Members of the family resident in the Member State other than  
that in which the employed or self-employed person resides**

1 In order to receive benefits in kind under the terms of Article 21 of the Regulation, members of the family shall present to the institution at the place of stay a certificate stating that they are entitled to the said benefits. This certificate, which shall be provided by the institution of the place of residence of the members of the family, if possible prior to their leaving the territory of the Member State on which they reside, shall, in particular, indicate where appropriate the maximum period for granting benefits in kind, as laid down by the legislation of that Member State. If the members of the family do not present the said certificate, the institution at the place of stay shall contact the institution of the place of residence in order to obtain it.

[<sup>F3</sup>2 Article 17(9) of the implementing Regulation shall apply by analogy.]

**Textual Amendments**

**F3** Substituted by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures (Text with relevance for the EEA and for Switzerland).

*Implementation of Article 22 of the Regulation*

*<sup>F2</sup>Article 20*

**[<sup>F2</sup>Benefits in kind in the case of a stay in a Member State other  
than the competent State — Special case of persons employed  
in international transport and members of their families]**

**Textual Amendments**

**F2** Deleted by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures (Text with relevance for the EEA and for Switzerland).

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### [<sup>F3</sup> Article 21

#### **Benefits in kind in the case of a stay in a Member State other than the competent State**

1 In order to receive benefits in kind under Article 22(1)(a)(i) of the Regulation, an employed or self-employed person shall submit to the care provider a document issued by the competent institution certifying that he is entitled to benefits in kind. That document shall be drawn up in accordance with Article 2. If the person concerned is not able to submit that document, he shall contact the institution of the place of stay which shall request from the competent institution a certified statement testifying that the person concerned is entitled to benefits in kind.

A document issued by the competent institution for entitlement to benefits in accordance with Article 22(1)(a)(i) of the Regulation, in each individual case concerned, shall have the same effect with regard to the care provider as national evidence of the entitlements of the persons insured with the institution of the place of stay.

2 Article 17(9) of the implementing Regulation shall apply by analogy.]

#### **Textual Amendments**

**F3** Substituted by [Regulation \(EC\) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation \(EEC\) No 574/72 laying down the procedure for implementing Regulation \(EEC\) No 1408/71, in respect of the alignment of rights and the simplification of procedures \(Text with relevance for the EEA and for Switzerland\).](#)

### *Article 22*

#### **Benefits in kind for employed or self-employed persons who transfer their residence or return to their country of residence, and for employed or self-employed persons authorized to go to another Member State for medical treatment**

1 In order to receive benefits in kind under Article 22 (1) (b) (i) of the Regulation, an employed or self-employed person shall submit to the institution of the place of residence a certified statement testifying that he is entitled to continue receiving the said benefits. The certified statement, which shall be issued by the competent institution, shall specify in particular, where necessary, the maximum period during which such benefits may continue to be provided, in accordance with the provisions of the legislation of the competent State. The certified statement may, at the request of the person concerned, be issued after his departure if, for reasons of force majeure, it cannot be drawn up beforehand.

[<sup>F32</sup> Article 17(9) of the implementing Regulation shall apply by analogy.;

3 Paragraphs 1 and 2 shall apply by analogy in respect of the provisions of benefits in kind in the case referred to in Article 22 (1) (c) (i) of the Regulation.



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

#### Textual Amendments

- F3** Substituted by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures (Text with relevance for the EEA and for Switzerland).

### Article 23

#### Benefits in kind for members of the family

The provisions of Article 21 or 22 of the implementing Regulation, as appropriate, shall apply by analogy in respect of the granting of benefits in kind to members of the family as provided for in Article 22 (3) of the Regulation.

[<sup>F3</sup>However, in the cases referred to in the second subparagraph of Article 22(3) of the Regulation, the institution of the place of residence and the legislation of the country of residence of the members of the family shall be considered, respectively, as the competent institution and as the legislation of the competent State for the purposes of Articles 17(9), 21 and 22 of the implementing Regulation.]

#### Textual Amendments

- F3** Substituted by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures (Text with relevance for the EEA and for Switzerland).

### Article 24

#### Cash benefits for employed or self-employed persons in the case of a stay in a Member State other than the competent State

The provisions of Article 18 of the implementing Regulation shall apply by analogy in respect of the receipt of cash benefits under Article 22 (1) (a) (ii) of the Regulation. However, without prejudice to the obligation to submit a certificate of incapacity for work, an employed or self-employed person who is staying in the territory of a Member State without pursuing any employment or self-employment there, shall not be required to submit the notification of having ceased work referred to in Article 18 (1) of the implementing Regulation.

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### *Implementation of Article 23 (3) of the Regulation*

#### *Article 25*

#### **Certified statement relating to the members of the family to be taken into account in the calculation of cash benefits**

1 In order to receive benefits under the provisions of Article 23 (3) of the Regulation, an employed or self-employed person shall submit to the competent institution a certified statement relating to the members of his family who are resident in the territory of a Member State other than that wherein the said institution is situated.

2 This certified statement shall be issued by the institution of the place of residence of the members of the family.

It shall be valid for the 12 months following the date of its issue. It may be renewed; in such a case, it shall be valid from the date of its renewal.

The person concerned shall immediately notify the competent institution of any occurrence necessitating an amendment to the said certified statement. Such amendment shall take effect from the date of such occurrence.

3 In place of the certified statement provided for in paragraph 1, the competent institution may require the person concerned to produce recent civil status documents relating to the members of his family who are resident in the territory of a Member State other than that wherein the said institutions is situated.

### *Implementation of Article 25 (1) of the Regulation*

#### *Article 26*

#### **Benefits for unemployed persons who go to a Member State other than the competent State in order to seek employment there**

[<sup>F3</sup>1 In order to receive benefits in kind under Article 25(1)(a) and (1a) of the Regulation, an unemployed person or a family member accompanying him shall submit to the care provider a document issued by the competent institution certifying that he is entitled to benefits in kind. That document shall be drawn up in accordance with the provisions of Article 2. If the person concerned is not able to submit that document, he shall contact the institution of the place of stay which shall request from the competent institution a certified statement testifying that the person concerned is entitled to benefits in kind.

A document issued by the competent institution for entitlement to benefits in accordance with Article 25(1)(a) of the Regulation, in each individual case concerned, shall have the same effect with regard to the care provider as national evidence of the entitlements of persons insured with the institution of the place to which the unemployed person has gone.]

[<sup>F4</sup>1a In order to receive benefits in cash under Article 25(1)(b) of the Regulation for himself and for members of his family, an unemployed person shall submit to the insurance institution of the place where he has gone a certified statement for which, prior to his departure, he shall have applied to the competent insurance institution. If the unemployed person does not submit that certified statement, the institution of the place to which he has gone shall obtain it from

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the competent institution. That certified statement must testify the existence of the right to the benefits in question under the conditions set out in Article 69(1) (a) of the Regulation, indicate the duration of such right taking into account the provisions of Article 69(1)(c) of the Regulation and, in the case of incapacity for work or hospitalisation, specify the amount of cash benefits to be provided, where appropriate, by way of sickness insurance during the abovementioned period.]

2 The unemployment insurance institution of the place where the unemployed person has gone shall testify, on a copy of the certified statement referred to in Article 83 of the implementing Regulation which shall be sent to the sickness insurance institution of that same place, that the conditions laid down in Article 69 (1) (b) of the Regulation have been fulfilled and shall specify the date from which they were fulfilled, and the date from which the unemployed person shall receive unemployment insurance benefits at the expense of the competent institution.

This certified statement shall be valid for the period laid down in Article 69 (1) (c) of the Regulation, for as long as the conditions are fulfilled. The unemployment insurance institution of the place where the unemployed person has gone shall, within three days, inform the said sickness insurance institution if the conditions are no longer satisfied.

[<sup>F33</sup> Article 17(9) of the implementing Regulation shall apply by analogy.]

4 In order to receive the cash benefits provided for by the legislation of the competent State, the unemployed person shall, within three days, send a certificate of incapacity for him, to the sickness insurance institution of the place to which he has gone. He shall also state the date up to which he has received sickness insurance benefits and his address in the country where he is.

5 The sickness insurance institution of the place to which the unemployed person has gone shall, within three days, notify the competent sickness insurance institution, as well as the institution where the unemployed person is registered as seeking employment, of the date when the incapacity for work began and ended.

6 In the cases defined in Article 25 (4) of the Regulation, the sickness insurance institution of the place to which the unemployed person has gone shall inform the competent sickness insurance institution and the competent unemployment insurance institution that it considers that the conditions justifying the extension of the period during which benefits in cash and in kind may be granted are satisfied, stating the grounds on which its opinion is based, and shall attach to the communication it sends to the competent sickness insurance institution a detailed report from the examining doctor on the condition of the patient, indicating the probable period during which the conditions for applying Article 25 (4) of the Regulation will exist. The competent sickness insurance institution shall then take the decision as to the extension of the period during which benefits may be granted to the sick unemployed person.

7 The provisions of Article 18 (2), (3), (4), (5), (6), (8) and (9) of the implementing Regulation shall apply by analogy.

#### **Textual Amendments**

- F3** Substituted by [Regulation \(EC\) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation \(EEC\) No 574/72 laying down the procedure for implementing Regulation \(EEC\) No 1408/71, in respect of the alignment of rights and the simplification of procedures \(Text with relevance for the EEA and for Switzerland\).](#)

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

**F4** Inserted by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures (Text with relevance for the EEA and for Switzerland).

### *Implementation of Article 25 (3) of the Regulation*

#### *Article 27*

#### **Benefits in kind for members of the family of unemployed persons in the case of residence in a Member State other than the competent State**

The provisions of Article 17 of the implementing Regulation shall apply by analogy in respect of the granting of benefits in kind to the members of the family of unemployed persons when such members of the family are resident in the territory of a Member State other than the competent State. At the time of the registration of the members of the family of unemployed persons receiving benefits under the provisions of Article 69 (1) of the Regulation the certified statement referred to in Article 26 (1) of the implementing Regulation must be produced. This certified statement shall be valid for the period of time during which the benefits may be granted under Article 69 (1) of the Regulation.

### *Implementation of Article 26 of the Regulation*

#### *Article 28*

#### **Benefits in kind for pension claimants and for members of their families**

1 In order to receive benefits in kind in the territory of the Member State in which he resides, under Article 26 (1) of the Regulation, a claimant and the members of his family shall register with the institution of the place of residence by submitting a certified statement testifying that he is entitled under the legislation of another Member State to the said benefits for himself and for the members of his family. This certified statement shall be issued by the institution of that other Member State which is responsible for benefits in kind.

2 The institution of the place of residence shall inform the institution which has issued the certified statement of every registration effected in accordance with paragraph 1.

### *Implementation of Articles 28 and 28a of the Regulation*

#### *Article 29*

#### **Benefits in kind for pensioners and members of their families who are not resident in a Member State under whose legislation they receive a pension and are entitled to benefits**

1 In order to receive benefits in kind in the territory of the Member State in which he resides, under Articles 28 (1) and 28a of the Regulation, a pensioner and the members of his family<sup>F5</sup> residing in the same Member State] shall register with the institution of the place of residence by submitting a certified statement testifying that he is entitled to the said benefits

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for himself and for the members of his family, under the legislation or one of the legislations under which a pension is payable.

2 This certified statement shall be issued, at the request of the pensioner, by the institution or one of the institutions responsible for payment of the pension or, where appropriate, by the institution empowered to determine entitlement to benefits in kind, as soon as the pensioner satisfies the conditions for acquisition of the right to such benefits. If the pensioner does not submit the certified statement, the institution of the place of residence shall obtain it from the institution or institutions responsible for payment of the pension, or, where appropriate, from the institution empowered to issue such certified statement. Whilst awaiting the receipt of this certified statement the institution of the place of residence may, in the light of the documentary evidence accepted by it, register the pensioner and the members of his family<sup>F5</sup>residing in the same Member State] provisionally. This registration shall bind the institution responsible for the payment of benefits in kind only if this latter institution has issued the certified statement provided for in paragraph 1.

3 The institution of the place of residence shall inform the institution which has issued the certified statement provided for in paragraph 2 of every registration effected in accordance with the provisions of the said paragraph.

4 When an application is made for benefits in kind it must be proved to the institution of the place of residence, by means of the receipt or the counterfoil of the money order of the last payment made, that the pensioner is still entitled to a pension.

5 The pensioner or the members of his family<sup>F5</sup>residing in the same Member State] shall inform the institution of the place of residence of any entitlement to benefits in kind, in particular any suspension or withdrawal of the pension and any transfer of their residence. The institutions responsible for the pension shall also inform the institution of the pensioners place of residence of any such change.

6 The Administrative Commission shall, to the extent necessary, fix the procedure for determining the institution which shall bear the cost of the payment of benefits in kind, in the case referred to in Article 28 (2) (b) of the Regulation.

#### **Textual Amendments**

**F5** Inserted by [Council Regulation \(EC\) No 1223/98 of 4 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.](#)

### *Implementation of Article 29 of the Regulation*

#### *Article 30 (14)*

#### **Benefits in kind for members of the family who are resident<sup>F5</sup>outside the competent Member State] in a Member State other than the State in which the pensioner is resident**

1 In order to receive benefits in kind, in the territory of the Member State in which they reside, under Article 29 (1) of the Regulation, the members of the family shall register with the institution of their place of residence by submitting the documentary evidence required by the legislation which that institution administers for the granting of such benefits to members of the

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family of a pensioner, together with a certified statement testifying that the pensioner is entitled to benefits in kind for himself and for the members of his family. [<sup>F6</sup>This certified statement, which shall be issued by the institution or by one of the institutions responsible for paying the pension, or, where applicable, the institution empowered to decide on entitlement to benefits in kind, shall remain valid as long as the institution of the place of residence of the members of the family has not been notified of its cancellation]. [<sup>F5</sup>If the members of the family do not present a certified statement, the institution of the place of residence shall, in order to obtain it, contact the institution or institutions responsible for paying the pension or, where applicable, the institution empowered to do so.] However, where the said certified statement has been issued by a German, French, Italian or Portuguese institution, it shall be valid only for a period of one year following the date on which it was issued and must be renewed every year.

2 When making an application for benefits in kind the members of the family shall submit to the institution of their place of residence the certified statement referred to in paragraph 1, if the legislation which that institution administers provides that such an application must be accompanied by evidence of entitlement to a pension.

[<sup>F63</sup> The institution which has issued the certified statement referred to in paragraph 1 shall inform the institution of the place of residence of the members of the family of the suspension or withdrawal of the pension. The institution of the place of residence of the members of the family may, at any time, request the institution which has issued the certified statement to supply it with any information related to entitlement to benefits in kind.]

4 The members of the family shall inform the institution of their place of residence of any change in their situation which is likely to alter their entitlement to benefits in kind, in particular any transfer of residence.

[<sup>F55</sup> The institution of the place of residence shall inform the institution which issued the statement referred to in paragraph 1 of any registration it has carried out, in accordance with the provisions of that paragraph.]

#### Textual Amendments

- F5** Inserted by Council Regulation (EC) No 1223/98 of 4 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.
- F6** Substituted by Council Regulation (EC) No 1223/98 of 4 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.

### *Implementation of Article 31 of the Regulation*

#### *[<sup>F3</sup>Article 31*

#### **Benefits in kind for pensioners and members of their families staying in a Member State other than the one in which they reside**

1 In order to receive benefits in kind under Article 31 of the Regulation, a pensioner shall submit to the care provider a document issued by the institution of the place of residence certifying that he is entitled to the benefits in kind. That document shall be drawn up in

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accordance with Article 2. If the person concerned is not able to submit that document, he shall contact the institution of the place of stay which shall request from the institution of the place of residence a certified statement testifying that the person concerned is entitled to benefits in kind.

A document issued by the competent institution for entitlement to benefits in accordance with Article 31 of the Regulation, in each individual case concerned, shall have the same effect with regard to the care provider as national evidence of the entitlements of persons insured with the institution of the place of stay.

2 Article 17(9) of the implementing Regulation shall apply by analogy.

3 Paragraphs 1 and 2 shall apply by analogy in respect of the granting of benefits in kind to the members of the family covered by Article 31 of the Regulation. If these family members reside in the territory of a Member State other than that of the pensioner, the document referred to in paragraph 1 shall be issued by the institution of their place of residence.]

#### **Textual Amendments**

**F3** Substituted by [Regulation \(EC\) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council 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 Council Regulation \(EEC\) No 574/72 laying down the procedure for implementing Regulation \(EEC\) No 1408/71, in respect of the alignment of rights and the simplification of procedures \(Text with relevance for the EEA and for Switzerland\).](#)

### *Implementation of Article 35 (1) of the Regulation*

#### *Article 32*

#### **Institution to which workers in mines and similar undertakings and members of their families may apply when staying or residing in a Member State other than the competent State**

1 In the cases referred to in Article 35 (1) of the Regulation and where, in the country of stay or residence, the benefits provided under the insurance scheme for sickness or maternity covering manual workers in the steel industry are equivalent to those provided under the special scheme for workers in mines and similar undertakings, workers belonging to the latter category and members of their families may apply to the nearest institution in the territory of the Member State in which they are staying or residing, specified in Annex 3 to the implementing Regulation, even if the latter is an institution of the scheme applicable to manual workers in the steel industry, which institution shall then provide such benefits.

2 Where the benefits provided under the special scheme for workers in mines and similar undertakings are more advantageous, such workers or the members of their families shall have the option of applying either to the institution responsible for the administration of that scheme, or to the nearest institution in the territory of the Member State in which they are staying or residing which administers the scheme for manual workers in the steel industry. In the latter case, the institution in question shall draw the attention of the person concerned to the fact that by applying to the institution responsible for the administration of the abovementioned special scheme, he will obtain more advantageous benefits; it must, furthermore, inform him of the name and address of such institution.

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### *Implementation of Article 35 (2) of the Regulation*

#### *<sup>F7</sup>Article 32a*

#### **[<sup>F7</sup>Special schemes applying to certain self-employed persons]**

#### **Textual Amendments**

- F7** Deleted 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.

### *Implementation of Article 35 (4) of the Regulation*

#### *Article 33*

#### **Taking account of the period during which benefits have already been provided by the institution of another Member State**

For the purposes of implementing the provisions of Article 35 (4) of the Regulation, the institution of a Member State called upon to provide benefits may request the institution of another Member State to supply it with information relating to the period during which the latter institution has already provided benefits for the same case of sickness or maternity.

*Refund by the competent institution of one Member State of expenses incurred during a stay in another Member State*

#### *Article 34 (12)*

1 If it is not possible during an employed or self-employed person's stay in a Member State other than the competent State to complete the formalities provided for in Articles 20 (1) and (4) and 21, 23 and 31 of the implementing Regulation, his expenses shall, upon his application, be refunded by the competent institution in accordance with the refund rates administered by the institution of the place of stay.

2 The institution of the place of stay shall, at the request of the competent institution, supply it with the necessary information about such rates.

If the institution of the place of stay and the competent institution are bound by an agreement providing either that no refund, or that a lump-sum refund of benefits provided, in pursuance of Articles 22 (1) (a) (i) and 31 of the Regulation, be made, the institution of the place of stay shall, in addition, be required to transfer to the competent institution the amount to be refunded to the person concerned in pursuance of the provisions of paragraph 1.



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3 Where major expenses are involved, the competent institution may pay an appropriate advance to the person concerned as soon as that person submits to the said institution the claim for refund.

4 Notwithstanding paragraphs 1, 2 and 3, the competent institution may effect the reimbursement of expenses incurred in accordance with the rates it administers provided that it is possible to make a refund in accordance with these rates, that the expenses to be refunded do not exceed a level determined by the Administrative Commission and that the employed person or self-employed person or pensioner agrees to the application of this provision. In any case, the amount of reimbursement shall not exceed the amount of the expenses actually incurred.

[<sup>F8</sup>5 If the legislation of the State of stay does not provide for rates of reimbursement, the competent institution may effect the reimbursement in accordance with the rates it administers, without the agreement of the person concerned being necessary. In no case shall the amount of reimbursement exceed the amount of the expenses actually incurred.]

#### Textual Amendments

- F8** Substituted by [Regulation \(EC\) No 1386/2001 of the European Parliament and of the Council of 5 June 2001 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 \(Text with EEA relevance\).](#)

## CHAPTER 3

### INVALIDITY, OLD-AGE AND DEATH (PENSIONS)

#### *Submission and investigation of claims for benefits*

#### *Article 35 (11)*

#### **Applications for invalidity benefits where an employed person or a self-employed person has been subject only to the legislations mentioned in part A of Annex IV to the Regulation and also in the case referred to in Article 40 (2) of the Regulation**

1 In order to receive benefits under Articles 37, 38 and 39 of the Regulation, including the cases referred to in Articles 40 (2), 41 (1) and 42 (2) of the Regulation, an employed or self-employed person shall submit a claim either to the institution of the Member State to whose legislation he was subject at the time of occurrence of the incapacity for work followed by invalidity or the aggravation of such invalidity, or to the institution of the place of residence, which shall then forward the claim to the first institution, indicating the date on which it was submitted; this date shall be regarded as the date of the submission of the claim to the first institution. However, if sickness insurance cash benefits have been granted, the date on which such cash benefits ceased to be granted must, where appropriate, be regarded as the date of submission of the pension claim.

2 In the case referred to in Article 41 (1) (b) of the Regulation, the institution with which the employed or self-employed person was last insured shall notify the amount and the operative date of the benefits due under the legislation which it administers to the institution initially responsible for payment of the benefits. With effect from that date, the benefits due prior to

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the aggravation of the invalidity shall be cancelled or reduced to an amount not exceeding the supplement referred to in Article 41 (1) of the Regulation.

3 The provisions of paragraph 2 shall not apply in the case referred to in Article 41 (1) (d) of the Regulation. In this case, the institution with which the claimant was last insured shall apply to the Netherlands institution in order to ascertain the amount due from that institution.

#### *Article 36*

### **Claims for old-age and survivors' benefits (excluding orphans' benefits) and invalidity benefits in cases not referred to in Article 35 of the implementing Regulation**

1 In order to receive benefits under Articles 40 to 51 of the Regulation, except in the cases referred to in Article 35 of the implementing Regulation, the person concerned shall submit a claim to the institution of the place of residence in accordance with the procedure provided for by the legislation administered by that institution. If the employed or self-employed person has not been subject to that legislation, the institution of the place of residence shall forward the claim to the institution of the Member State to whose legislation he was last subject, indicating the date on which the claim was submitted. That date shall be regarded as the date on which the claim was submitted to the latter institution.

2 Where a claimant resides in the territory of a Member State to whose legislation the employed or self-employed person has not been subject, he may submit his claim to the institution of the Member State to whose legislation the employed or self-employed person was last subject.

3 Where a claimant resides in the territory of a State which is not a Member State, he shall submit his claim to the competent institution of that Member State to whose legislation the employed or self-employed person was last subject.

Should the claimant submit his claim to the institution of the Member State of which he is a national, the latter shall forward such claim to the competent institution.

4 A claim for benefits sent to the institution of one Member State shall automatically involve the concurrent award of benefits under the legislation of all the Member States in question whose conditions the claimant satisfies except where, under Article 44 (2) of the Regulation, the claimant asks for postponement of any old-age benefits to which he would be entitled under the legislation of one or more Member States.

#### *Article 37*

### **Documents and information which should accompany claims to the benefits referred to in article 36 of the implementing Regulation**

The submission of the claims referred to in Article 36 of the implementing Regulation shall be subject to the following rules:

- (a) the claim must be accompanied by the required supporting documents and must be made on the form provided for by the legislation:
  - (i) of the Member State on whose territory the claimant resides, in the case referred to in Article 36 (1);

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- (ii) of the Member State to which the employed or self-employed person was last subject, in the cases referred to in Article 36 (2) and (3);
- (b) the accuracy of the information supplied by the claimant must be established by official documents attached to the claim form, or confirmed by the competent bodies of the Member State in whose territory the claimant resides;
- (c) the claimant must indicate, in so far as is possible, either the institution or institutions administering insurance in respect of invalidity, old-age or death (pensions) of any Member State with which the employed or self-employed person has been insured, or in the case of an employed person the employer or employers for whom he has worked in the territory of any Member State, by producing any employment certificates which he may have in his possession;
- (d) if, under Article 44 (2) of the Regulation, the claimant asks for the postponement of the award of any old-age benefits to which he would be entitled under the legislation of one or more member States he must specify the legislation under which he is claiming benefits.

#### *Article 38*

#### **Certified statements of the members of the family to be taken into account when establishing the amount of the benefit**

1 In order to receive benefits under the provisions of Article 39 (4) or 47 (3) of the Regulation, the claimant shall submit a certified statement relating to the members of his family, his children excepted, who are residing in the territory of a Member State other than in which the institution responsible for the award of benefits is situated.

This certified statement shall be issued by the sickness insurance institution of the place of residence of the members of the family, or by another institution designated by the competent authority of the Member State in whose territory they are resident. The provisions of the second and third subparagraphs of Article 25 (2) of the implementing Regulation shall apply by analogy.

In place of the certified statement provided for in the first subparagraph, the institution responsible for the award of benefits may require the claimant to supply recent civil status documents relating to the members of his family, his children excepted, who are residing in the territory of a Member State other than the State in which the said institution is situated.

2 In the case referred to in paragraph 1, if the legislation administered by the institution concerned requires that the members of the family should live under the same roof as the pensioner, the fact that the said members of the family who do not satisfy that condition are nevertheless mainly dependent on the claimant must be established by documents proving the regular transmission of part of the claimant's earnings.

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### *Article 39 (11)*

#### **Investigation of applications for invalidity benefits where an employed person or a self-employed person has been subject only to the legislations mentioned in part A of Annex IV to the Regulation**

1 If an employed or self-employed person has submitted a claim for invalidity benefits, and the institution establishes that the provisions of Article 37 (1) of the Regulation apply, that institution shall, where necessary, obtain from the institution with which the person concerned was last insured a certified statement of the periods of insurance completed by him under the legislation administered by the last institution.

2 Where it is necessary to take into account periods of insurance previously completed under the legislation of any other Member State in order to satisfy the conditions of the legislation of the competent State, the provisions of paragraph 1 shall apply by analogy.

3 In the case referred to in Article 39 (3) of the Regulation, the institution which has investigated the claimant's case shall forward his file to the institution with which the person concerned was last insured.

4 Articles 41 to 50 of the implementing Regulation shall not apply to the investigation of claims referred to in paragraphs 1, 2 and 3.

### *Article 40*

#### **Determination of the degree of invalidity**

In order to determine the degree of invalidity, the institution of the Member State shall take into consideration the documents and medical reports and the information of an administrative nature obtained by the institution of any other Member State. Each institution shall, however, retain the right to have the claimant examined by a doctor of its own choice except where the provisions of Article 40 (4) of the Regulation apply.

*Investigation of claims for benefits in respect of invalidity, old age and survivors in the cases referred to in Article 36 of the implementing Regulation*

### *Article 41*

#### **Determination of the investigating institutions**

1 Claims for benefit shall be investigated by the institution to which they have been sent or forwarded in accordance with the provisions of Article 36 of the implementing Regulation. This institution is hereinafter referred to as the 'investigating institution'.

2 The investigating institution shall forthwith notify claims for benefits to all the institutions concerned on a special form, so that the claims may be investigated simultaneously and without delay by all these institutions.

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## Article 42

### Forms to be used for the investigation of claims for benefits

1 When investigating claims for benefits the investigating institution shall use a form which will include, in particular, a statement and a summary of the periods of insurance or residence completed by the employed or self-employed person under the legislation of all the Member States concerned.

2 These forms, when forwarded to the institution of any other Member State, shall take the place of supporting documents.

## Article 43

### Procedure to be followed by the institution concerned in the investigation of a claim

1 The investigating institution shall enter on the form provided for in Article 42 (1) of the implementing Regulation the periods of insurance or residence completed under the legislation which it administers and it shall forward a copy of that form to the institution administering insurance in respect of invalidity, old-age or death (pensions) of any Member State with which the employed or self-employed person has been insured enclosing, where appropriate, any employment certificates produced by the claimant.

2 Where only one other institution is involved, that institution shall complete the said form by indicating:

- a the periods of insurance or residence completed under the legislation which it administers;
- b the amount of benefit which the claimant could claim in respect of those periods of insurance or residence only;
- c the theoretical amount and the actual amount of benefits calculated in accordance with the provisions of Article 46 (2) of the Regulation.

The form, thus completed, shall be returned to the investigating institution.

If a right to benefits is acquired taking into account only the periods of insurance or residence completed under the legislation administered by the institution of the second Member State, and if the amount of benefit corresponding to those periods can be determined without delay, whereas the calculation procedure referred to in subparagraph (c) requires an appreciably longer period of time, the form shall be returned to the investigating institution with the information referred to in subparagraphs (a) and (b); the information referred to in subparagraph (c) shall be forwarded to the investigating institution as soon as possible.

3 If two or more other institutions are involved, each one of those institutions shall complete the said form by indicating the periods of insurance or residence completed under the legislation which it administers, and shall return it to the investigating institution.

If a right to benefits is acquired taking into account only the periods of insurance or residence completed under the legislation administered by one or more of those institutions, and if the amount of benefit corresponding to those periods can be determined without delay, the investigating institution shall be simultaneously notified of that amount and of the periods of insurance or residence; if the determination of the

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said amount involves some delay, the investigating institution shall be notified of that amount as soon as it has been determined.

On receipt of all the forms giving information concerning periods of insurance or residence and, where appropriate, the amount or amounts due under the legislation of one or more of the Member States concerned, the investigating institution shall forward a copy of the forms thus completed to each of the institutions concerned which shall specify thereon the theoretical amount and the actual amount of the benefits, calculated in accordance with the provisions of Article 46 (2) of the Regulation, and shall return the form to the investigating institution.

4 As soon as the investigating institution, upon receipt of the information referred to in paragraphs 2 or 3, establishes the fact that the provisions of Article 40 (2) or 48 (2) or (3) of the Regulation should be applied, it shall inform the other institutions concerned accordingly.

5 In the case provided for in Article 37 (d) of the implementing Regulation, the institutions of the Member States to whose legislation the claimant has been subject but to which he has applied for postponement of the award of the benefits shall enter on the form provided for in Article 42 (1) of the implementing Regulation only the periods of insurance or residence completed by the claimant under the legislation which they administer.

#### *Article 44*

##### **Institution empowered to take a decision relating to the degree of invalidity**

1 Subject to the provisions of paragraphs 2 and 3, only the investigating institution shall be empowered to take the decision referred to in Article 40 (4) of the Regulation concerning the degree of invalidity of the claimant. It shall take such a decision as soon as it is in a position to determine whether, taking account, where appropriate, of the provisions of Article 45 of the Regulation, the conditions for entitlement fixed by the legislation which it administers are fulfilled. It shall notify such decision forthwith to the other institutions concerned.

2 If, taking account of the provisions of Article 45 of the Regulation, the conditions for entitlement, other than those relating to the degree of invalidity, laid down by the legislation administered by the investigating institution are not fulfilled, that institution shall immediately notify the competent institution in respect of invalidity of the other Member State to whose legislation the employed or self-employed person was last subject. This institution shall, if the conditions for entitlement laid down by the legislation which it administers are fulfilled, be empowered to take the decision relating to the degree of invalidity of the claimant; it shall forthwith notify that decision to the other institutions concerned.

3 Where necessary, the matter may have to be referred back, under the same conditions, to the competent institution in respect of invalidity of the Member State to whose legislation the employed or self-employed person was first subject.

#### *Article 45*

##### **Provisional payment of benefits and advance payments of benefits**

1 If the investigating institution establishes that the claimant is entitled to benefits under the legislation which it administers without having recourse to periods of insurance or residence completed under the legislation of other Member States, it shall pay such benefits immediately on a provisional basis.

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2 If the claimant is not entitled to benefits under paragraph 1 but, from information supplied to the investigating institution pursuant to Article 43 (2) or (3) of the implementing Regulation, it transpires that a right to benefits is acquired under the legislation of another Member State taking into account only the periods of insurance or residence completed under that legislation, the institution which administers the said legislation shall pay such benefits on a provisional basis as soon as the investigating institution has informed it of its obligation to do so.

3 If, in the case referred to in paragraph 2, a right to benefits is acquired under the legislation of more than one Member State, taking into account only those periods of insurance or residence completed under each one of those legislations, the payment of benefits on a provisional basis shall be the responsibility of the institution which in the first place informed the investigating institution of the existence of such a right; it shall be the duty of the investigating institution to inform the other institutions concerned.

4 The institution required to pay benefits under paragraph 1, 2 or 3 shall forthwith inform the claimant of the fact, drawing his attention explicitly to the provisional nature of the measure taken and to the fact that is not open to appeal.

5 If no benefit is payable to the claimant on a provisional basis under paragraph 1, 2 or 3, but it transpires from information received that a right is acquired under Article 46 (2) of the Regulation, the investigating institution shall pay him an appropriate recoverable advance, the amount of which shall be as close as possible to the amount he will probably be awarded under Article 46 (2) of the Regulation.

6 Two Member States or the competent authorities or those member States may agree to apply other methods of payment of benefits on a provisional basis in cases where only the institutions of those States are concerned. Any such agreements which are concluded on this subject shall be notified to the Administrative Commission.

#### *Article 46 (11)*

#### **Amounts due for periods of voluntary insurance or optional continued insurance, which must not be taken into consideration under Article 15 (1) (b) of the implementing Regulation.**

For the calculation of the theoretical amount and of the actual amount of the benefit in accordance with Article 46 (2) (a) and (b) of the Regulation, the rules laid down in Article 15 (1), (b), (c) and (d) of the implementing Regulation shall be applicable.

The amount actually due, calculated in accordance with Article 46 (2) of the Regulation, shall be increased by the amount which corresponds to the periods of voluntary or optional continued insurance, which have not been taken into account under Article 15 (1) (b) of the implementing Regulation. This increase shall be calculated in accordance with the provisions of the Member State's legislation under which the periods of voluntary insurance or of optional continued insurance have been completed.

The comparison referred to in Article 46 (3) of the Regulation must be made bearing the aforesaid increase in mind.

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#### *Article 47 (11)*

### **Calculation of the amounts due corresponding to the periods of voluntary or optional continued insurance**

In accordance with the legislation it applies, the institution of each Member State shall calculate the amount corresponding to the periods of voluntary or optional continued insurance which, under Article 46a (3) (c) of the Regulation, is not subject to the provisions for withdrawal, reduction or suspension of another Member State.

#### *Article 48 (11)*

### **Notification to the claimant of the decisions of the institutions**

1 The final decision taken by each of the institutions concerned shall be notified to the investigating institution. Each of these decisions must specify the grounds and time-limits for appeal provided for by the legislation in question. When all these decisions have been received, the investigating institution shall communicate them to the claimant in his own language by means of a summarized statement to which the aforesaid decisions shall be appended. Periods allowed for appeals shall commence only on the date of receipt of the summarized statement by the claimant.

2 On dispatch to the claimant of the summarized statement provided for in paragraph 1, the investigating institution shall simultaneously forward a copy to each one of the institutions concerned, enclosing with it a copy of the decisions of the other institutions.

#### *Article 49 (11)*

### **Recalculation of benefits**

1 For the purpose of implementing Article 43 (3) and (4), Article 49 (2) and (3) and Article 51 (2) of the Regulation, the provisions of Article 45 of the implementing Regulation shall apply *mutatis mutandis*.

2 In the event of recalculation, withdrawal or suspension of a benefit, the institution which has taken such a decision shall immediately notify the person concerned and each of the institutions on which the person concerned has a claim, if necessary through the good offices of the investigating institution. The decision must specify the grounds and time-limits for appeal provided for by the legislation in question. Periods allowed for appeals shall commence only on the date of receipt of the decision by the person concerned.

#### *Article 50*

### **Measures designed to accelerate the award of benefits**

1

- a (i) Where an employed or self-employed person who is a national of one Member State becomes subject to the legislation of another Member State, the competent institution in respect of pensions of the latter Member State shall, using all the means at its disposal and at the time of registration of the person



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concerned, forward to the body designated by the competent authority of that same Member State, all information relating to the identification of the person concerned and the name of the said competent institution and the insurance number allotted by the latter

- (ii) Moreover, the competent institution referred to in subparagraph (i) shall also, as far as possible, forward to the body designated under the provisions of subparagraph (i) any other information which may facilitate and accelerate the award of the pensions.
  - (iii) Such information shall be forwarded, under conditions fixed by the Administrative Commission, to the body designated by the competent authority of the Member State concerned.
  - (iv) For the implementation of the provisions of subparagraphs (i), (ii) and (iii), stateless persons and refugees shall be deemed to be nationals of the member State to whose legislation they were first subject.
- b The institutions concerned shall, at the request of the person concerned or of the institution with which he is currently insured, draw up his insurance history starting not later than one year before the date on which he will reach pensionable age.

2 The Administrative Commission shall fix the methods for implementing the provisions of paragraph 1.

#### *Administrative checks and medical examinations*

##### *Article 51*

- 1 When a person in receipt of benefits, in particular:
- a invalidity benefits;
  - b old-age benefits awarded in the event of unfitness for work;
  - c old-age benefits awarded to elderly unemployed persons;
  - d old-age benefits awarded in the event of cessation of a professional or trade activity;
  - e survivors' benefits awarded in the event of invalidity or unfitness for work;
  - f benefits awarded on condition that the means of the recipient do not exceed a prescribed limit,

is staying or residing in the territory of a Member State other than the State in which the institution responsible for payment is situated, administrative checks and medical examinations shall be carried out, at the request of that institution, by the institution of the place of stay or residence of the recipient in accordance with the procedures laid down by the legislation administered by the latter institution. The institution responsible for payment shall, however, reserve the right to have the recipient examined by a doctor of its own choice.

2 If it is established that the recipient referred to in paragraph 1 is employed or self-employed or has means in excess of the prescribed limit while receiving benefits, the institution of the place of stay or residence shall send a report to the institution responsible for payment which has requested the check or examination. This report shall indicate in particular the nature of the employment or self-employment pursued by the person concerned, the amount of earnings or means which he has had during the last complete quarter, the normal earnings obtained in the same area by an employed person or a self-employed person at the same level as the person concerned in the occupation which he followed before becoming an invalid over a reference

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period to be determined by the institution responsible for payment and, where appropriate, the opinion of a medical expert on the state of health of the person concerned.

#### *Article 52*

When, after suspension of the benefits which he was receiving, the person concerned recovers his right to benefits whilst residing in the territory of a Member State other than the competent State, the institutions concerned shall exchange all relevant information with a view to the resumption of the provision of the said benefits.

#### *Payment of benefits*

#### *Article 53*

### **Method of payment of benefits**

1 If the institution responsible for payment in a Member State does not pay directly to persons entitled to benefits who are residing in the territory of another Member State the benefits due to them, such benefits shall be paid, at the request of the institution responsible for payment, by the liaison body of the latter Member State or by the institution of the place of residence of the said persons entitled to benefits in accordance with the procedure, provided for in Articles 54 to 58 of the implementing Regulation; if the institution responsible for payment pays the benefits directly to the persons entitled thereto, it shall notify the institution of the place of residence of this fact. The payment procedure to be applied by the institution of the Member-States is listed in Annex 6.

2 Two or more Member States or the competent authorities of those States may agree on other procedures for the payment of benefits in cases where the competent institutions of those Member States are the only ones concerned. Any agreements concluded on this subject shall be notified to the Administrative Commission.

3 The provisions of agreements relating to the payment of benefits which apply on the day preceding the entry into force of the Regulation shall continue to apply provided that they are listed in Annex 5.

#### *Article 54*

### **Notification to the paying body of the detailed schedule of payments to be made**

The institution responsible for payment of benefits shall send to the liaison body of the Member State in whose territory the person entitled to benefits is residing, or to the institution of the place of residence (both hereinafter called 'the paying body'), in duplicate, a detailed schedule of payments to be made which should reach the paying body not later than 20 days before the date on which those benefits become due.

#### *Article 55*

### **Payment of amounts due into the account of the paying body**

1 Ten days before the date on which the benefits fall due, the institution responsible for payment shall pay, in the currency of the member State in whose territory it is situated, the sum necessary for the payments specified in the schedule provided for in Article 54 of

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the implementing Regulation. Payment shall be made through the National Bank or through another bank of the Member State in whose territory the institution responsible for payment is situated, into an account opened in the name of the national Bank or of another bank of the member State in whose territory the paying body is situated, in favour of that body. Such payment shall discharge all liability. The institution responsible for payment shall, at the same time, send notification of payment to the paying body.

2 The bank into whose account payment has been made shall credit the paying body with the exchange value of the payment in the currency of the Member State in whose territory that body is situated.

3 The names and registered offices or places of business of the banks referred to in paragraph 1 are listed in Annex 7.

#### *Article 56*

#### **Payment of amounts due by the paying body to persons entitled to benefits**

1 The payments specified in the schedule provided for in Article 54 of the implementing Regulation shall be paid to the person entitled to benefits by the paying body on behalf of the institution responsible for payment. Such payments shall be made according to the procedure laid down by the legislation administered by the paying body.

2 As soon as the paying body or any other body designated by it learns of any circumstance justifying the suspension or withdrawal of benefits, it shall discontinue all payment. Such shall also be the case when the person entitled to benefits transfers his residence to the territory of another State.

3 The paying body shall advise the institution responsible for payment of benefits of the reason for any non-payment. In the event of the death of the person entitled to benefits or of his spouse, or in the case of the re-marriage of a widow or widower, the paying body shall notify the said institution of the date thereof.

#### *Article 57*

#### **Settlement of accounts in respect of the payment referred to in Article 56 of the implementing Regulation**

1 The accounts in respect of the payments referred to in Article 56 of the implementing Regulation shall be settled at the end of each payment period in order to determine amounts actually paid to persons entitled to benefits or to their legal or authorized representatives as well as amounts unpaid.

2 The total amount, expressed in figures and in words in the currency of the Member State in whose territory the institution responsible for payment is situated, shall be certified as being in accordance with the payments made by the paying body and endorsed with the signature of that body's representative.

3 The paying body shall guarantee that the payments so determined have been properly made.

4 The difference between the sums paid by the institution responsible for payment, expressed in the currency of the Member State in whose territory that institution is situated, and the value, expressed in the same currency, of the payments accounted for by the paying

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body shall be entered against the sums to be paid subsequently under the same heading by the institution responsible for payment.

#### *Article 58*

### **Recovery of expenses incurred in the payment of benefits**

The expenses incurred in the payment of benefits, particularly postal and bank charges, may be recovered from the recipients by the paying body under the conditions provided for by the legislation administered by that body.

#### *Article 59*

### **Notification of transfer of residence of the person entitled to benefits**

When a person entitled to benefits due under the legislation of one or more Member States transfers his residence from the territory of one State to that of another State, he shall notify this fact to the institution or institutions responsible for the payment of such benefits and to the paying body.

## CHAPTER 4

### **ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES**

#### *Implementation of Articles 52 and 53 of the Regulation*

#### *Article 60*

### **Benefits in kind in the case of residence in a Member State other than the competent State**

1 In order to receive benefits in kind under Article 52 (a) of the Regulation, an employed or self-employed person shall submit to the institution of the place of residence a certified statement testifying that he is entitled to such benefits in kind. This certified statement, based upon information supplied by the employer, where appropriate, shall be issued by the competent institution. Moreover, if the legislation of the competent State so provides, the employed or self-employed person shall submit to the institution of the place of residence a receipt from the competent institution of notification of an accident at work or of an occupational disease. If the person concerned does not submit such documents, the institution of the place of residence shall obtain them from the competent institution and, pending their arrival, it shall grant him the benefits in kind under sickness insurance, provided that he satisfies the conditions for entitlement thereto.

2 That certified statement shall remain valid until the institution of the place of residence receives notification of its cancellation. However, when the said certified statement has been issued by a French institution, it shall be valid only for a year following the date of its issue, and must be renewed every year.

3 If the person concerned is a seasonal worker, the certified statement referred to in paragraph 1 shall be valid for the whole of the expected duration of the seasonal work unless,

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in the meanwhile, the competent institution notifies the institution of the place of residence of its cancellation.

4 Upon each application for benefits in kind, the person concerned shall submit the supporting documents for the granting of benefits in kind under the legislation of the Member State in whose territory he resides.

F<sup>9</sup>5 .....

F<sup>9</sup>6 .....

7 The person concerned shall inform the institution of the place of residence of any change in his situation which is likely to alter his entitlement to benefits in kind, in particular any cessation or change of employment or self-employment or any transfer of residence or stay. Likewise, should the person concerned cease to be insured or cease to be entitled to benefits in kind, the competent institution shall inform the institution of the place of residence accordingly. The institution of the place of residence may, at any time, request the competent institution to supply it with any information relating to the insurance of the person concerned or to his entitlement to benefits in kind.

8 In the case of frontier workers, medicinal products, bandages, spectacles and small appliances may be issued, and laboratory analyses and tests carried out, only in the territory of the Member State in which they were prescribed in accordance with the provisions of the legislation of that Member State.

9 Two or more Member State or the competent authorities of these Member States may, having received the opinion of the Administrative Commission, agree on other implementing provisions.

**Textual Amendments**

**F9** Deleted by [Regulation \(EC\) No 629/2006 of the European Parliament and of the Council of 5 April 2006 amending Council 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 Council Regulation \(EEC\) No 574/72 laying down the procedure for implementing Regulation \(EEC\) No 1408/71 \(Text with EEA relevance\).](#)

*Article 61*

**Cash benefits other than pensions in the case of residence  
in a Member State other than the competent State**

1 In order to receiver cash benefits other than pensions under Article 52 (b) of the Regulation, an employed or self-employed person shall, within three days of commencement of the incapacity for work, apply to the institution of the place of residence by submitting a notification of having ceased work or, if the legislation administered by the competent institution or by the institution of the place of residence so provides, a certificate of incapacity for work issued by the doctor providing treatment for the person concerned.

2 If the doctors providing treatment in the country of residence do not issue certificates of incapacity for work, the person concerned shall apply directly to the institution of the place of residence within the time limit fixed by the legislation which it administers.

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The institution shall immediately have the incapacity for work medically confirmed and the certificate referred to in paragraph 1 drawn up. Such certificate shall state the probable duration of the incapacity and shall be forwarded to the competent institution forthwith.

3 In case where paragraph 2 does not apply, the institution of the place of residence shall, as soon as possible and in any event within the three days following the date on which the person concerned applied to it, have him medically examined as if he were insured with that institution. The report of the examining doctor shall indicate, in particular, the probable duration of the incapacity for work, and shall be forwarded to the competent institution of the place of residence within the three days following the date of the examination.

4 The institution of the place of residence shall subsequently carry out any necessary administrative checks or medical examinations of the person concerned as if he were insured with that institution. As soon as it establishes that he is fit to resume work it shall forthwith notify the person concerned and the competent institution accordingly stating the date on which the incapacity for work ceased. Without prejudice to the provisions of paragraph 6, the notification to the person concerned shall be treated as a decision taken on behalf of the competent institution.

5 In all cases, the competent institution shall reserve the right to have the person concerned examined by a doctor of its own choice.

6 If the competent institution decides to withhold the cash benefits because the person concerned has not completed the formalities laid down by the legislation of the country of residence, or if it establishes that the person concerned is fit to resume work, it shall notify the person concerned of its decision and shall simultaneously send a copy of such decision to the institution of the place of residence.

7 When the person concerned resumes work, he shall notify the competent institution accordingly if such notification is required by the legislation administered by that institution.

8 The competent institution shall pay cash benefits by the appropriate method, in particular by international money order, and shall inform the institution of the place of residence and the person concerned accordingly. Where cash benefits are paid by the institution of the place of residence on behalf of the competent institution, the latter shall inform the person concerned of his rights and shall notify the institution of the place of residence of the amount of the cash benefits, the dates for payment and the maximum period during which they should be granted, in accordance with the legislation of the competent State.

9 Two or more Member States or the competent authorities of those Member States may, having received the opinion of the Administrative Commission, agree on other implementing provisions.

#### *Implementation of Article 55 of the Regulation*

##### *¶<sup>F10</sup> Article 62*

#### **Benefits in kind in the case of a stay in a Member State other than the competent State**

1 In order to receive benefits in kind under Article 55(1)(a)(i) of the Regulation, an employed or self-employed person shall submit to the care provider a document issued by the competent institution certifying that he is entitled to benefits in kind. That document shall be drawn up in accordance with Article 2. If the person concerned is not able to submit that

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document, he shall contact the institution of the place of stay which shall request from the competent institution a certified statement testifying that the person concerned is entitled to benefits in kind.

A document issued by the competent institution for entitlement to benefits in accordance with Article 55(1)(a)(i) of the Regulation, in each individual case concerned, shall have the same effect with regard to the care provider as national evidence of the entitlements of the persons insured with the institution of the place of stay.

2 Article 60(9) of the implementing Regulation shall apply *mutatis mutandis*.]

#### Textual Amendments

**F10** Substituted by Regulation (EC) No 629/2006 of the European Parliament and of the Council of 5 April 2006 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (Text with EEA relevance).

#### Article 63

#### **Benefits in kind for employed or self-employed persons who transfer their residence or return to their country of residence, and for employed or self-employed persons authorized to go to another Member State for medical treatment**

1 In order to receive benefits in kind under Article 55 (1) (b) (i) of the Regulation, an employed or self-employed person shall submit to the institution of the place of residence a certified statement testifying that he is entitled to continue receiving the said benefits. This certified statement, which shall be issued by the competent institution, shall specify in particular, where necessary, the maximum period during which such benefits may continue to be provided, in accordance with the provisions of the legislation of the competent State. The certified statement may, at the request of the person concerned, be issued after his departure if, for reasons of force majeure, it cannot be drawn up beforehand.

[<sup>F10</sup>2 Article 60(9) of the implementing Regulation shall apply *mutatis mutandis*.]

3 Paragraphs 1 and 2 shall apply by analogy in respect of the provision of benefits in kind in the case referred to in Article 55 (1) (c) (i) of the Regulation.

#### Textual Amendments

**F10** Substituted by Regulation (EC) No 629/2006 of the European Parliament and of the Council of 5 April 2006 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (Text with EEA relevance).

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#### *Article 64*

### **Cash benefits other than pensions in the case of a stay in a Member State other than the competent State**

The provisions of Article 61 of the implementing Regulation shall apply by analogy in respect of the receipt of cash benefits, other than pensions, under Article 55 (1) (a) (ii) of the Regulation. However, without prejudice to the obligation to submit a certificate of incapacity for work, an employed or self-employed person who is staying in the territory of a Member State without pursuing any professional or trade activity there shall not be required to submit the notification of having ceased work referred to in Article 61 (1) of the implementing Regulation.

#### *Implementation of Articles 52 to 56 of the Regulation*

#### *Article 65*

### **Declarations, investigations and exchange of information between institutions to an accident at work sustained in, or an occupational disease contracted in, a Member State other than the competent State**

1 When an accident at work is sustained in, or an occupational disease is diagnosed for the first time in, the territory of a Member State other than the competent State, a declaration of the accident at work or occupational disease must be made in accordance with the provisions of the legislation of the competent State without prejudice to any legal provisions in force in the territory of the Member State in which the accident at work was sustained or in which the occupational disease was first diagnosed, and which shall in such a case remain applicable. This declaration shall be sent to the competent institution and a copy shall be sent to the institution of the place of residence or to the institution of the place of stay.

2 The institution of the Member State in whose territory the accident at work was sustained or in which the occupational disease was first diagnosed, shall forward to the competent institution, in duplicate, the medical certificate drawn up in that territory and any relevant information which the latter institution may request.

3 If, in the case of an accident sustained while travelling in the territory of a Member State other than the competent State, there are grounds for holding an enquiry in the territory of the first Member State, an investigator may be appointed for that purpose by the competent institution, which shall so inform the authorities of that Member State. Those authorities shall assist the said investigator, in particular by appointing a person to assist him in the consultation of official reports and any other documents relating to the accident.

4 At the end of the treatment, a detailed report shall be forwarded to the competent institution together with medical certificates concerning the permanent consequences of the accident or disease, and in particular the present condition of the person concerned, and the recovery from the injuries or their consolidation. The relevant fees shall be paid by the institution of the place of residence or the institution of the place of stay, as the case may be, in accordance with the rate applied by the institution, but shall be chargeable to the competent institution.

5 The competent institution shall, on request, notify the institution of the place of residence or the institution of the place of stay, as the case may be, of the decision determining



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the date of recovery from the injuries or their consolidation and, where appropriate, the decision relating to the granting of a pension.

### *Article 66*

#### **Disputes concerning the occupational nature of the accident or disease**

1 When, in the cases referred to in Article 52 or 55 (1) of the Regulation, the competent institution disputes the application of the legislation relating to accidents at work or occupational diseases, it shall forthwith notify that fact to the institution of the place of residence or institution of the place of stay which provided the benefits in kind; those benefits shall then be considered as coming under sickness insurance and shall continue to be provided thereunder upon presentation of the certificates or certified statements referred to [F10 in Article 21] of the implementing Regulation.

2 When a final decision has been reached on this subject, the competent institution shall forthwith notify the fact to the institution of the place of residence or to the institution of the place of stay which provided the benefits in kind. Where the case is not one of an accident at work or an occupational disease that institution shall continue to provide the said benefits in kind under sickness insurance if the employed or self-employed person is entitled thereto. In other cases, the benefits in kind received by the person concerned under sickness insurance shall be considered as benefits for an accident at work or an occupational disease.

#### **Textual Amendments**

**F10** Substituted by Regulation (EC) No 629/2006 of the European Parliament and of the Council of 5 April 2006 amending Council 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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (Text with EEA relevance).

### *Implementation of Article 57 of the Regulation*

#### *Article 67 (7)*

#### **Procedure in the case of exposure to the risk of an occupational disease in several Member States**

1 In the case covered by Article 57 (1) of the Regulation, notification of the occupational disease shall be forwarded either to the competent institution in respect of occupational diseases of the Member State under whose legislation the person suffering from the disease last pursued an activity likely to cause the disease in question, or to the institution of the place of residence, which shall forward the notification to the said competent institution.

2 If the competent institution referred to in paragraph 1 ascertains that an activity which might cause the occupational disease in question was last pursued under the legislation of another Member State, it shall forward the notification and the accompanying documents to the corresponding institution of that Member State.

3 When the institution of the Member State under whose legislation the person suffering from the disease last pursued an activity which might cause the occupational disease in question

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ascertains that such person or his survivors do not satisfy the conditions of that legislation, taking into account the provisions of Article 57 (2), (3) and (4) of the Regulation, the said institution shall:

- a forward, without delay, to the institution of the Member State under whose legislation the person suffering from the disease previously pursued an activity which might cause the disease in question, the notification and all accompanying documents, including the findings and reports of the medical examinations arranged by the first institution, and a copy of the decision referred to under (b);
- b simultaneously notify the person concerned of its decision, indicating in particular the reasons for the refusal of benefits, the grounds and time limits for appeal, and the date on which the file was forwarded to the institution referred to under (a).

4 Where necessary the case should be referred back, in accordance with the same procedure, to the corresponding institution of the Member State under whose legislation the person suffering from the disease first pursued the activity which might cause the occupational disease in question.

#### *Article 68 (7)*

#### **Exchange of information between institutions in the event of an appeal against a decision to reject a claim — Payment of advances in the event of such an appeal**

1 Where an appeal is lodged against a decision to reject a claim taken by the institution of one of the Member States under whose legislation the person suffering from the disease pursued an activity which might cause the occupational disease in question, that institution shall so inform the institution to which the notification has been forwarded in accordance with the procedure laid down in Article 67 (3) of the implementing Regulation, and shall subsequently notify it of the final decision reached.

2 If the right to benefits was acquired under the legislation administered by the latter institution, taking into account the provisions of Article 57 (2), (3) and (4) of the Regulation, that institution shall pay advances up to an amount to be determined, where necessary, after consultation with the institution against whose decision the appeal was lodged. The latter institution shall reimburse the amount of the advance paid if, as a result of the appeal, it is required to provide the benefits. That amount shall then be deducted from the total amount of the benefits due to the person concerned.

#### *Article 69 (7)*

#### **Apportionment of the cost of cash benefits in cases of sclerogenic pneumoconiosis**

The following rules shall apply for the implementation of Article 57 (5) of the Regulation:

- (a) the competent institution of the Member State under whose legislation cash benefits are granted pursuant to Article 57 (1) of the Regulation (hereinafter called 'the institution responsible for payment of cash benefits') shall use a form containing, in particular, a statement and summary of all periods of insurance (old-age insurance) or periods of residence completed by the person suffering from the disease under the legislation of each one of the Member States concerned;
- (b) the institution responsible for payment of cash benefits shall forward that form to all old-age insurance institutions of those Member States with which the person suffering

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- from the disease was insured; each one of the said institutions shall enter on the form the periods of insurance (old-age insurance) or periods of residence completed under the legislation which it administers and shall return the form to the institution responsible for payment of cash benefits;
- (c) the institution responsible for payment of cash benefits shall then apportion the costs between itself and the other competent institutions concerned; it shall notify the latter of such apportionment for their approval together with appropriate supporting evidence in particular as regards the total amount of cash benefits granted and the calculation of the percentages of the apportionment;
- (d) at the end of each calendar year, the institution responsible for payment of cash benefits shall forward to each of the other competent institutions concerned a statement of cash benefits paid during the financial year under consideration, showing the amount due from each of them according to the apportionment provided for under (c); each one of those institutions shall refund the amount due to the institution responsible for payment of cash benefits as soon as possible, and within three months at the latest.

#### *Implementation of Article 58 (3) of the Regulation*

#### *Article 70*

#### **Certified statement relating to the members of the family to be taken into consideration when calculating cash benefits including pensions**

1 In order to receive benefits under the provisions of Article 58 (3) of the Regulation the claimant shall submit a certified statement relating to the members of his family who are residing in the territory of a Member State other than that in which the institution responsible for the award of cash benefits is situated.

This certified statement shall be issued by the sickness insurance institution of the place of residence of the member of the family or by another institution designated by the competent authority of the Member State in whose territory they are resident. The provisions of the second and third subparagraphs of Article 25 (2) of the implementing Regulation shall apply by analogy.

In place of the certified statement provided for in the first subparagraph, the institution responsible for the award of cash benefits may require the claimant to produce recent civil status documents relating to member of his family who are residing in the territory of a Member State other than that in which the said institution is situated.

2 In the case referred to in paragraph 1, if the legislation administered by the institution concerned requires that the members of the family should live under the same roof as the claimant, the fact that the said member of the family who do not satisfy that condition are nevertheless mainly dependent on the claimant must be established by documents proving the regular transmission of part of the claimant's earnings.

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### *Implementation of Article 60 of the Regulation*

#### *Article 71*

##### **Aggravation of an occupational disease**

1 In the cases covered by Article 60 (1) of the Regulation, the claimant shall supply the institution of the Member State from which he is claiming rights to benefits with all information relating to benefits previously granted in respect of the occupational disease in question. That institution may apply to any other institution which has previously been competent in order to obtain any information which it considers necessary.

2 In the case covered by Article 60 (1) of the Regulation, the competent institution required to pay the cash benefits shall notify the other institution concerned, for its approval, of the amount of costs to be borne by the latter institution as a result of the aggravation, together with appropriate supporting evidence. At the end of each calendar year, the first institution shall send the second institution a statement of the cash benefits paid during the financial year in question, showing the amount due from the latter institution which shall make the refund to the first institution as soon as possible, and within three months at the latest.

3 In the case referred to in the first sentence of Article 60 (2) (b) of the Regulation, the institution responsible for payment of cash benefits shall notify the competent institutions concerned, for their approval, of the changes made in the previous apportionment of costs together with the appropriate supporting evidence.

4 In the case referred to in the second sentence of Article 60 (2) (b) of the Regulation, the provisions of paragraph 2 shall apply by analogy.

### *Implementation of Article 61 (5) and (6) of the Regulation*

#### *Article 72*

##### **Assessment of the degree of incapacity in the case of an accident at work sustained previously or subsequently or an occupational disease diagnosed previously or subsequently**

1 In order to assess the degrees of incapacity, to establish a right to any benefit, or to determine the amount of such benefit in the cases referred to in Article 61 (5) and (6) of the Regulation, a claimant shall supply the competent institution of the Member State to whose legislation he was subject at the time when the accident at work was sustained or the occupational disease was first diagnosed, with all information on previous or subsequent accidents at work sustained or occupational diseases contracted by him when he was subject to the legislation of any other Member State, whatever the degree of incapacity caused by those previous or subsequent cases.

2 In accordance with the legislation which it administers in respect of the acquisition of the right to benefit, and the determination of the amount of benefit, the competent institution shall take into account the degree of incapacity caused by those previous or subsequent cases.

3 The competent institution may apply to any other institution which was previously or subsequently competent to obtain any information which it considers necessary.

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When a previous or a subsequent incapacity for work was caused by an accident sustained while the person concerned was subject to the legislation of a Member State which makes no distinction as to the origin of the incapacity for work, the competent institution in respect of a previous or subsequent incapacity for work or the body designated by the competent authority of the Member State concerned shall, at the request of the competent institution of another Member State, supply information on the degree of the previous or subsequent incapacity for work and, as far as possible, any information which would make it possible to determine whether the incapacity was the result of an accident at work within the meaning of the legislation administered by the institution of the second Member State. Where such is the case, the provisions of paragraph 2 shall apply by analogy.

#### *Implementation of Article 61 (1) of the Regulation*

#### *Article 73*

#### **Institutions to which workers in mines and similar undertakings may apply when staying or residing in a Member State other than the competent State**

1 In the cases referred to in Article 62 (1) of the Regulation and where, in the country of stay or residence, the benefits provided under the insurance scheme for accidents at work and occupational disease covering manual workers in the steel industry are equivalent to those provided under the special scheme for workers in mines and similar undertakings, workers belonging to the latter category may apply to the nearest institution in the territory of the Member State in which they are staying or residing specified in Annex 3 of the implementing Regulation, even if the latter is an institution of the scheme applicable to manual workers in the steel industry, which institution shall then provide such benefits.

2 Where the benefits provided under the special scheme for workers in mines and similar undertakings are more advantageous, such workers shall have the option of applying either to the institution responsible for the administration of that scheme, or to the nearest institution in the territory of the Member State in which they are staying or residing, which administers the scheme for manual workers in the steel industry. In the latter case the institution in question shall draw the attention of the person concerned to the fact that by applying to the institution responsible for the administration of the abovementioned special scheme, he will obtain more advantageous benefits; it must, furthermore, inform him of the name and address of such institution.

#### *Implementation of Article 62 (2) of the Regulation*

#### *Article 74*

#### **Taking account of the period during which benefits have already been provided by the institution of another Member State**

For the purpose of Article 61 (2) of the Regulation, the institution of a Member State called upon to provide benefits may request the institution of another Member State to supply it with information relating to the period during which the latter institution has already provided benefits for the same case of accident at work or occupational disease.

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*Status: Point in time view as at 25/02/2008.*

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

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*Submission and investigation of pension claims, excluding pensions in respect of occupational diseases covered by Article 57 of the Regulation*

*Article 75*

1 In order to receive a pension or supplementary allowance under the legislation of a Member State, an employed or self-employed person or his survivors residing in the territory of another Member State shall make a claim either to the competent institution, or to the institution of the place of residence, which shall forward such claim to the competent institution. The submission of the claim shall be subject to the following rules:

- a the claim must be accompanied by the required supporting documents and made on the form provided for by the legislation administered by the competent institution;
- b the accuracy of the information supplied by the claimant must be established by official documents attached to the claim form, or confirmed by the competent bodies of the Member State in whose territory the claimant resides.

2 The competent institution shall notify the claimant of its decisions directly or through the liaison body of the competent State; it shall send a copy of that decision to the liaison body of the Member State in whose territory the claimant resides.

*Administrative checks and medical examinations*

*Article 76*

1 Administrative checks and medical examinations, including medical examinations provided for in the event of pensions being reviewed, shall be carried out at the request of the competent institution by the institution of the Member State in whose territory the person entitled to benefits happens to be, in accordance with the procedures laid down by the legislation administered by the latter institution. The competent institution shall, however, reserve the right to have the person entitled to benefits examined by a doctor of its own choice.

2 Any person drawing a pension for himself or for an orphan shall inform the institution responsible for payment of any change in his situation or in that of the orphan which is likely to modify the pension rights.

*Payment of pensions*

*Article 77*

Payment of pensions due from the institution of one Member State to pensioners resident in the territory of another Member State shall be made in accordance with the provisions of Articles 53 to 58 of the implementing Regulation.

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*Status: Point in time view as at 25/02/2008.*

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

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## CHAPTER 5

### DEATH GRANTS

#### *Implementation of Articles 64, 65 and 66 of the Regulation*

##### *Article 78*

#### **Submission of a claim for a grant**

In order to receive a death grant under the legislation of a Member State other than the State in whose territory he resides, the claimant shall submit his claim either to the competent institution or to the institution of the place of residence.

The claim must be accompanied by the supporting documents required by the legislation which the competent institution administers.

The accuracy of the information supplied by the claimant must be established by official documents attached to the claim or confirmed by the competent bodies of the Member State in whose territory the claimant resides.

##### *Article 79*

#### **Certified statement of periods**

1 In order to invoke the provisions of Article 64 of the Regulation, a claimant shall submit to the competent institution a certified statement specifying the periods of insurance or residence completed by the employed or self-employed person under the legislation to which he was last subject.

2 This certified statement shall be issued, at the request of the claimant, by the sickness insurance or the old-age insurance institution, as the case may be, with which the employed or self-employed person was last insured. If the claimant does not submit the said certified statement, the competent institution shall obtain it from one or other of the aforementioned institutions.

3 The provisions of paragraphs 1 and 2 shall apply by analogy if, in order to satisfy the conditions of the legislation of the competent State, it is necessary to take into account periods of insurance or residence previously completed under the legislation of any other Member State.

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*Status: Point in time view as at 25/02/2008.*

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

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## CHAPTER 6

### UNEMPLOYMENT BENEFITS

#### *Implementation of Article 67 of the Regulation*

##### *Article 80*

#### **Certified statement of periods of insurance or employment**

1 In order to invoke the provisions of Article 67 (1), (2) or (4) of the Regulation, the person concerned shall submit to the competent institution a certified statement specifying the periods of insurance or employment completed previously as an employed person under the legislation to which he was last subject, together with any further information required by the legislation administered by that institution.

2 This certified statement shall be issued, at the request of the person concerned, either by the competent institution in respect of unemployment of the Member State to whose legislation he was last subject, or by another institution designated by the competent authority of the said Member State. If he does not submit the said certified statement, the competent institution shall obtain it from one or other of the aforementioned institutions.

3 The provisions of paragraphs 1 and 2 shall apply by analogy if, in order to satisfy the conditions of the legislation of the competent State, it is necessary to take into account periods of insurance or employment completed previously as an employed person under the legislation of any other Member State.

#### *Implementation of Article 68 of the Regulation*

##### *Article 81*

#### **Certified statement for the calculation of benefits**

Where the responsibility for the calculation of benefits rests upon an institution covered by Article 68 (1) of the Regulation, and where a person has not pursued his last employment for at least four weeks in the territory of the Member State in which that institution is situated, he shall submit to the said institution a certified statement indicating the nature of the last employment pursued for at least four weeks in the territory of another Member State, and the branch of the economy in which that employment was pursued. If the person concerned does not submit this certified statement, the said institution shall obtain it either from the competent institution in respect of unemployment of the latter Member State with which he was last insured, or from another institution designated by the competent authority of that Member State.

##### *Article 82*

#### **Certified statement relating to the members of the family to be taken into consideration for the calculation of benefits**

1 In order to invoke the provisions of Article 68 (2) of the Regulation, the person concerned shall submit to the competent institution a certified statement relating to the members



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of his family who are resident in the territory of a Member State other than the one in which the said institution is situated.

2 This certified statement shall be issued by the institution designated by the competent authority of the Member State in whose territory those members of the family reside. It must certify that the members of the family are not taken into consideration for the calculation of unemployment benefits due to another person under the legislation of the said Member State.

The certified statement shall be valid for the 12 months following the date of its issue. It may be renewed; in such case, it shall be valid from the date of its renewal. The person concerned shall immediately notify the competent institution of any occurrence necessitating an amendment to the said certified statement. Such amendment shall take effect from the date of such occurrence.

3 Where the institution issuing the certified statement referred to in paragraph 1 is not in a position to certify that the members of the family are not taken into consideration for the calculation of unemployment benefits due to another person under the legislation of the Member State in whose territory they reside, the person concerned shall, when submitting the certified statement to the competent institution, supplement the said certified statement by a declaration to that effect.

The provisions of thesecond subparagraph of paragraph 2 shall apply by analogy to that declaration.

### *Implementation of Article 69 of the Regulation*

#### *Article 83*

#### **Conditions and limits for the retention of the right to benefits when an unemployed person goes to another Member State**

1 In order to retain the right to benefits, an unemployed person covered by Article 69 (1) of the Regulation shall submit to the institution of the place to which he has gone a certified statement in which the competent institution shall certify that he is still entitled to benefits under the conditions laid down in paragraph 1 (b) of the said Article. The competent institution shall specify in particular in this certified statement:

- a the amount of benefit to be paid to the unemployed person under the legislation of the competent State;
- b the date on which the unemployed person ceased to be available to the employment services of the competent State;
- c the time limit under Article 69 (1) (b) of the Regulation for registration as a person seeking work in the Member State to which the unemployed person has gone;
- d the maximum period, in accordance with Article 69 (1) (c) of the Regulation, during which the right to benefit may be retained;
- e facts which might alter entitlement to benefit.

2 An unemployed person who intends to go to another Member State in order to seek employment there shall before his departure, apply for the certified statement referred to in paragraph 1. If the unemployed person does not submit the said certified statement, the institution of the place to which he has gone shall obtain it from the competent institution. The employment services of the competent State must ensure that the unemployed person has been informed of his obligations under Article 69 of the Regulation and under this Article.

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*Status: Point in time view as at 25/02/2008.*

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3 The institution of the place to which the unemployed person has gone shall notify the competent institution of the date on which the unemployed person registered and the date on which payment of benefits was commenced and shall pay out the benefits of the competent State in accordance with the procedure provided for by the legislation of the Member State to which the unemployed person has gone.

The institution of the place to which the unemployed person has gone shall carry out a check or arrange for one to be carried out as if it were dealing with an unemployed person entitled to benefits under the legislation which it administers. It shall inform the competent institution of any occurrence coming within paragraph 1 (e) above as soon as the same comes to its knowledge and, in cases where the benefit has to be suspended or withdrawn, it shall immediately discontinue payment of the benefit. The competent institution shall forthwith inform it to what extent, and from what date, the unemployed person's entitlement to benefit is affected by that fact. Payment of benefits may only be resumed, where appropriate, after receipt of such information. Where the benefit has to be reduced, the institution of the place to which the unemployed person has gone shall continue to pay him a reduced amount of benefit, subject to adjustment, after receipt of the reply from the competent institution.

4 Two or more Member States or the competent authorities of those Member States may, having received the opinion of the Administrative Commission, agree on other implementing provisions.

#### *Implementation of Article 71 of the Regulation*

#### *Article 84*

#### **Unemployed persons who were formerly employed and who, during their last employment, were residing in a Member State other than the competent State**

1 In the cases referred to in Article 71 (1) (a) (ii) and in the first sentence of Article 71 (1) (b) (ii) of the Regulation, the institution of the place of residence shall be considered to be the competent institution, for the purposes of implementing the provisions of Article 80 of the implementing Regulation.

2 In order to claim benefits under the provisions of Article 71 (1) (b) (ii) of the Regulation, an unemployed person who was formerly employed shall submit to the institution of his place of residence, in addition to the certified statement provided for in Article 80 of the implementing Regulation, a certified statement from the institution of the Member State to whose legislation he was last subject, indicating that he has no right to benefits under Article 69 of the Regulation.

3 For the purposes of implementing the provisions of Article 71 (2) of the Regulation, the institution of the place of residence shall ask the competent institution for any information relating to the entitlements, from the latter institution, of the unemployed person who was formerly an employed person.

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*Status: Point in time view as at 25/02/2008.*

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## CHAPTER 7 (8)

### FAMILY BENEFITS

#### *Implementation of Article 72 of the Regulation*

##### *Article 85 (A)*

#### **Certified statement of periods of employment or self-employment**

1 In order to invoke the provisions of Article 72 of the Regulation, a person shall submit to the competent institution a certified statement specifying the period of insurance, employment or self-employment completed under the legislation to which he was last subject.

2 That certified statement shall be issued, at the request of the person concerned, either by the competent institution in respect of family benefits of the Member State with which he was last insured, or by another institution designated by the competent authority of the said Member State. If he does not submit the said certified statement, the competent institution shall obtain it from one or other of the abovementioned institution unless the sickness insurance institution is able to forward him a copy of the certified statement provided for in Article 16 (1) of the implementing Regulation.

3 The provisions of paragraphs 1 and 2 shall apply by analogy if, in order to satisfy the conditions of the legislation of the competent State, it is necessary to take into account periods of insurance, employment or self-employment completed previously under the legislation of any other Member State.

#### *Implementation of Articles 73 and 75 (1) and (2) of the Regulation (8)*

##### *Article 86 (8)*

1 In order to receive family benefits under Article 73 of the Regulation, an employed person shall submit a claim to the competent institution, where necessary through his employer.

2 In support of his claim, the employed person shall submit a certificate relating to members of his family residing in the territory of a Member State other than that in which the competent institution is situated. Such certificate shall be issued, either by the authorities competent in civil status matters in the country of residence of those members of the family, or by the competent institution in respect of sickness insurance in the place of residence of those members of the family, or by another institution designated by the competent authority of the Member State in whose territory those members of the family reside. Such a certificate must be renewed every year.

3 Where the legislation of the competent State provides that the family benefits may or must be paid to a person other than the employed person, the latter shall also submit in support of his claim, information identifying the individual to whom the family benefits are to be paid in the country of residence (name, forename, full address).

4 The competent authorities of two or more Member States may agree on special procedures for the payment of family benefits, in particular with a view to facilitating the implementation of Article 75 (1) and (2) of the Regulation. Such agreements shall be communicated to the Administrative Commission.

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*Status: Point in time view as at 25/02/2008.*

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5 An employed person shall inform the competent institution where necessary through his employer:

- of any change in the situation of the members of his family which might alter entitlement to family benefits,
- of any change in the number of members of his family for whom family benefits are due,
- of any transfer of residence or stay of such members of the family,
- of any pursuit of a professional or trade activity by virtue of which family benefits are also due under the legislation of the Member State in whose territory the members of the family are resident.

*Article 87 (8)*

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#### *Implementation of Article 74 of the Regulation*

*Article 88 (8)*

The provisions of Article 86 of the implementing Regulation shall apply by analogy to unemployed persons who were formerly employed or self-employed and who are covered by Article 74 of the Regulation.

*Article 89 (8)*

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## CHAPTER 8

### **BENEFITS FOR DEPENDENT CHILDREN OF PENSIONERS AND FOR ORPHANS**

#### *Implementation of Articles 77, 78 and 79 of the Regulation*

*Article 90*

1 In order to receive benefits under Article 77 or 78 of the Regulation, a claimant shall submit a claim to the institution of his place of residence, in accordance with the procedures laid down by the legislation administered by that institution.

2 If, however, the claimant does not reside in the territory of the Member State in which the competent institution is situated, he may submit his claim either to the competent institution or to the institution of his place of residence, which shall then forward the claim to the competent institution, indicating the date on which it was submitted. The date shall be considered as the date of submission of the claim to the competent institution.

3 If the competent institution referred to in paragraph 2 finds that there is no entitlement under the legislation which it administers, it shall forward the claim forthwith, together with all necessary documents and information, to the institution of the Member State to whose legislation the employed or self-employed person was subject for the longest period of time.

Where necessary the matter may have to be referred back, under the same conditions, to the institution of the Member State under whose legislation the person concerned completed the shortest of his periods of insurance or residence.

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*Status: Point in time view as at 25/02/2008.*

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4 The Administrative Commission shall, where necessary, lay down any supplementary procedures required for the submission of claims for benefits.

*Article 91*

1 Payment of benefits due under Article 77 or 78 of the Regulation shall be made in accordance with the provisions of Articles 53 to 58 of the implementing Regulation.

2 The competent authorities of the Member States shall, where necessary, designate the competent institution for paying benefits due under Article 77 or 78 of the Regulation.

*Article 92*

Any person to whom benefits are paid under Article 77 or 78 of the Regulation for a pensioner's children or for orphans, shall inform the institution responsible for the payment of such benefits:

- of any change in the situation of the children or orphans that is likely to alter the entitlement to benefits,
- of any modification in the number of children or orphans in respect of whom benefits are due,
- of any transfer of residence of the children or orphans,
- of any pursuit of a professional or trade activity giving entitlement to family benefits or family allowances for such children or orphans.

**Status:**

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**Changes to legislation:**

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