

Status: Point in time view as at 02/01/2007.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1408/71 (repealed), Division D.. (See end of Document for details)

ANNEX VI (A) (B) (2) (7)
(8) (9) (11) (12) (13) (14) (15)

SPECIAL PROCEDURES FOR APPLYING THE
LEGISLATIONS OF CERTAIN MEMBER STATES

[^{F1}D.DENMARK]

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2. [^{F3}Persons who, pursuant to Chapter 1, Title III of the Regulation, are entitled to benefits in kind during a period of stay or residence in Denmark shall be entitled to such benefits on the same terms as those laid down by Danish legislation for persons who, under the law on public health insurance (lov om offentlig sygesikring), belong to Class 1. However, persons who take up residence in Denmark and join the Danish health insurance scheme may, in the same way as insured Danish nationals, opt to belong to Class 2.]
3.
 - (a) The provisions of Danish legislation on social pensions that stipulate that the right to pension is subject to the claimant being resident in Denmark are not applicable to employed or self-employed persons or their survivors who reside in the territory of a Member State other than Denmark.
 - (b) For the purpose of calculating the pension, periods of employment or self-employment completed in Denmark by a frontier worker or a seasonal worker are regarded as periods of residence completed in Denmark by the surviving spouse in so far as the surviving spouse was during these periods, linked to the frontier worker or seasonal worker by marriage without separation from bed and board or de facto separation on grounds of incompatibility and provided that during these periods the spouse resided in the territory of another Member State.
 - (c) For the purpose of calculating the pension, periods of employment or self-employment completed in Denmark before 1 January 1984 by an employed or self-employed person other than a frontier worker or seasonal worker shall be regarded as periods of residence completed in Denmark by the surviving spouse, in so far as the surviving spouse was during these periods, linked to the employed or self-employed person by marriage without separation from bed and board or de facto separation on grounds of incompatibility, and provided that during these periods the spouse resided in the territory of another Member State.
 - (d) Periods to be taken into account under the terms of (b) and (c) shall not be taken into consideration if they coincide with the periods taken into account for the calculation of the pension due to the person concerned under the legislation on compulsory insurance of another Member State or with the periods during which the person concerned received a pension under such legislation.

These periods shall, however, be taken into consideration if the annual amount of the said pension is less than half the basic amount of the social pension.
4. The terms of the Regulation shall be without prejudice to the provisional rules under the Danish laws of 7 June 1972 on the pension rights of Danish nationals having their effective residence in Denmark for a specified period immediately preceding the date

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of the claim. However, a pension shall be granted under those conditions laid down for Danish nationals to nationals of other Member States having their effective residence in Denmark during the year immediately preceding the date of claim.

5. (a) The periods during which a frontier worker residing within the territory of a Member State other than Denmark has pursued his professional or trade activity in Denmark are to be considered as periods of residence for the purposes of Danish legislation. The same shall apply to periods in which a frontier worker is posted to or provides services in a Member State other than Denmark.
- (b) The periods during which a seasonal worker residing within the territory of a Member State other than Denmark has pursued his occupation in Denmark are to be considered as periods of residence for the purposes of Danish legislation. The same applies to periods during which a seasonal worker is posted to the territory of a Member State other than Denmark.
6. In order to determine whether or not conditions for entitlement to daily allowances in the case of sickness or maternity laid down by the law of 20 December 1989 on daily allowances in the case of sickness or maternity have been satisfied, where the person concerned is no longer subject to Danish legislation during the periods of reference fixed by the abovementioned law:
 - (a) account shall be taken of the insurance periods and employment periods fulfilled under the legislation of a Member State other than Denmark during the abovementioned reference periods during which the person concerned was not covered by Danish legislation, as if they are periods completed under the latter legislation,
 - and
 - (b) during the periods taken into account, a self-employed person or an employed person (in cases where, for the latter, remuneration cannot serve as a basis for calculating the daily allowances) are regarded as having had an average remuneration or salary of an amount equal to that on the basis of which the cash allowances are calculated in respect of the periods completed under Danish legislation during the reference periods.
7. Article 46a (3) (d) and Article 46c (1) and (3) of the Regulation and Article 7 (1) of the implementing Regulation shall not be applied to pensions awarded in the context of Danish legislation.
8. For the purpose of applying Article 67 of the Regulation, unemployment benefits for self-employed persons insured in Denmark shall be calculated in accordance with Danish legislation.
9. Where the beneficiary of a Danish retirement pension or early retirement pension is also entitled to a survivor's pension from another Member State, these pensions, for the implementation of Danish legislation shall be regarded as benefits of the same kind within the meaning of Article 46a (1) of the Regulation, subject to the condition, however, that the person whose periods of insurance or of residence serve as the basis for the calculation of the survivor's pension has also completed periods of residence in Denmark.
10. ^{F4}From a person who is covered by a special scheme for civil servants who is resident in Denmark and

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(a) to whom the provisions of Title III, Chapter 1, sections 2 to 7 do not apply;
and

(b) who is not entitled to a Danish pension,

the competent authorities may demand payment for the cost of benefits in kind granted in Denmark, insofar as the benefits in kind are covered by the special scheme concerned and/or by the personal insurance scheme supplementing it. This also applies to the spouse and children under the age of 18 of such a person.]

Textual Amendments

- F2** Deleted by [Council Regulation \(EC\) No 1223/98 of 4 June 1998](#).
- F3** Inserted by [Council Regulation \(EC\) No 1290/97 of 27 June 1997](#).
- F4** Inserted by [Council Regulation \(EC\) No 1606/98 of 29 June 1998](#).

11. [^{F5}The temporary benefit for unemployed persons who have been admitted to the 'flexible-job' scheme (ledighedsydelse) (Law No 455 of 10 June 1997) is covered by Title III, chapter 6 (Unemployment benefits). As regards unemployed persons going to another Member State, Articles 69 and 71 of this Regulation will be applicable when this Member State has similar employment schemes for the same category of persons.]

Textual Amendments

- F5** Inserted by [Regulation \(EC\) No 647/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulations \(EEC\) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and \(EEC\) No 574/72 laying down the procedure for implementing Regulation \(EEC\) No 1408/71](#).

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