

Council Regulation (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (8) (9) (10) (11) (Consolidated version — OJ No L 28 of 30. 1. 1997, p. 1 See appendix.) (repealed)

TITLE VII

TRANSITIONAL AND FINAL PROVISIONS

Article 94 (7) (8) (11) (12)

Transitional provisions for employed persons

1 No right shall be acquired under this Regulation in respect of a period prior to 1 October 1972 or to the date of its application in the territory of the Member State concerned or in a part of the territory of that State.

2 All periods of insurance and, where appropriate, all periods of employment or residence completed under the legislation of a Member State before 1 October 1972 or before the date of its application in the territory of that Member State or in a part of the territory of that State shall be taken into consideration for the determination of rights acquired under the provisions of this Regulation.

3 Subject to the provisions of paragraph 1, a right shall be acquired under this Regulation even though it relates to a contingency which materialized prior to 1 October 1972 or to the date of its application in the territory of the Member State concerned or in a part of the territory of that State.

4 Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, on the application of the person concerned, be awarded or resumed with effect from 1 October 1972 or the date of its application in the territory of the Member State concerned or in a part of the territory of that State, provided that the rights previously determined have not given rise to a lump sum payment.

5 The rights of a person to whom a pension was awarded prior to 1 October 1972 or to the date of its application in the territory of the Member State concerned or in a part of the territory of that State may, on the application of the person concerned, be reviewed, taking into account the provisions of this Regulation. This provision shall also apply to the other benefits referred to Article 78.

6 If an application referred to in paragraph 4 or 5 is submitted within two years from 1 October 1972 or from the date of its application in the territory of the Member State concerned, the rights acquired under this Regulation shall have effect from that date, and the provisions of the legislation of any Member State concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.

The same provisions shall apply as regards the application of this Regulation in those territories which became a part of the Federal Republic of Germany on 3 October 1990 provided that the application referred to in paragraph 4 or 5 is submitted within two years of 1 June 1992.

Status: Point in time view as at 28/04/2006. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1408/71 (repealed), Article 94 (7) (8) (11) (12). (See end of Document for details)

7 If an application referred to in paragraph 4 or 5 is submitted after the expiry of the two-year period after 1 October 1972 or following the date of its application in the territory of the Member State concerned, rights which have not been forfeited or which are not time barred shall have effect from the date on which the application was submitted, except where more favourable provisions of the legislation of any Member state apply.

The same provisions shall apply as regards the application of this Regulation in those territories which became a part of the Federal Republic of Germany on 3 October 1990 provided that the application referred to in paragraph 4 or 5 is submitted after two years have elapsed from 1 June 1992.

8 In case of sclerogenic pneumoconiosis, the provision of Article 57 (5) shall apply to cash benefits for an occupational disease the expense of which, in the absence of agreement between the institutions concerned, could not be divided between those institutions before 1 October 1972.

9 The family allowances received by employed persons employed in France or unemployed workers receiving unemployment benefits under French legislation in respect of the members of their families residing in another Member State on the date of 15 November 1989 shall continue to be paid at the rates, within the limits and according to the procedures applicable on that date as long as their amount exceeds that of the benefits that would be due as from the date of 16 November 1989 and as long as the persons concerned are subject to French legislation. Account shall not be taken of interruptions lasting less than one month nor of periods during which unemployment or sickness is drawn.

The procedure for implementing this paragraph and in particular the sharing of the cost of these allowances shall be determined by mutual agreement between the Member States concerned or by their competent authorities after the Administrative Commission has delivered an opinion.

10 The rights of persons to whom a pension was awarded prior to the entry into force of Article 45 (6) may be reviewed at their request subject to the provisions of Article 45 (6).

Status:

Point in time view as at 28/04/2006. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EC) No 1408/71 (repealed), Article 94 (7) (8) (11) (12).