

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. 1See appendix.) (repealed)

TITLE III

SPECIAL PROVISIONS RELATING TO THE VARIOUS CATEGORIES OF BENEFITS

CHAPTER 4

ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES

Section 1

Right to benefits

Article 52

Residence in a Member State other than the competent State — General rules

An employed or self-employed person who sustains an accident at work or contracts an occupational disease, and who is residing in the territory of a Member State other than the competent State, shall receive in the State in which he is residing:

- (a) benefits in kind, provided on behalf of the competent institution by the institutions of his place of residence in accordance with the provisions of the legislation which it administers as if he were insured with it;
- (b) cash benefits provided by the competent institution in accordance with the provisions of the legislation which it administers. However, by agreement between the competent institution and the institution of the place of residence, these benefits may be provided by the latter institution on behalf of the former in accordance with the legislation of the competent State.

Article 53

Frontier workers — Special rule

A frontier worker may also obtain benefits in the territory of the competent State. Such benefits shall be provided by the competent institution in accordance with the provisions of the legislation of that State, as if the person concerned were residing there.

Status: Point in time view as at 05/05/2005.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1408/71 (repealed), Section 1. (See end of Document for details)

Article 54

Stay in or transfer of residence to the competent State

1 An employed or self-employed person covered by Article 52 who is staying in the territory of the competent State shall receive benefits in accordance with the provisions of the legislation of that State, even if he has already received benefits before his stay. This provision shall not, however, apply to frontier workers.

2 An employed or self-employed person covered by Article 52 who transfers his place of residence to the territory of the competent State shall receive benefits in accordance with the provisions of the legislation of that State, even if he has already received benefits before transferring his residence.

Article 55

Stay outside the competent State — Return to or transfer of residence to another Member State after sustaining an accident or contracting an occupational disease — Need to go to another Member State in order to receive appropriate treatment

1 An employed or self-employed person who sustains an accident at work or contracts an occupational disease and:

- (a) who is staying in the territory of a Member State other than the competent State;
or
- (b) who, after having become entitled to benefits chargeable to the competent institution, is authorized by that institution to return to the territory of the Member State where he is resident, or to transfer his place of residence to the territory of another Member State;
or
- (c) who is authorized by the competent institution to go to the territory of another Member State in order to receive there the treatment appropriate to his condition;

shall be entitled:

- (i) to benefits in kind provided on behalf of the competent institution by the institution of the place of stay or residence in accordance with the provisions of the legislation administered by that institution as though he were insured with it, the period during which benefits are provided shall, however, be governed by the legislation of the competent State;
- (ii) to cash benefits provided by the competent institution in accordance with the legislation which it administers. However, by agreement between the competent institution and the institution of the place of stay or residence, those benefits may be provided by the latter institution on behalf of the former institution, in accordance with the legislation of the competent State.

2 The authorization required under paragraph 1 (b) may be refused only if it is established that movement of the person concerned would be prejudicial to his state of health or to the medical treatment being given.

Status: Point in time view as at 05/05/2005.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1408/71 (repealed), Section 1. (See end of Document for details)

The authorization required under paragraph 1 (c) may not be refused where the treatment in question cannot be given to the person concerned in the territory of the Member State in which he resides.

Article 56

Accidents while travelling

An accident while travelling which occurs in the territory of a Member State other than the competent State shall be deemed to have occurred in the territory of the competent State.

Article 57 (7)

Benefits for an occupational disease where the person concerned has been exposed to the same risk in several Member States

1 When a person who has contracted an occupational disease has, under the legislation of two or more Member States, pursued an activity which by its nature is likely to cause that disease, the benefits that he or his survivors may claim shall be awarded exclusively under the legislation of the last of those States whose conditions are satisfied, taking into account, where appropriate, paragraphs 2 to 5.

2 If, under the legislation of a Member State, the granting of benefits in respect of an occupational disease is subject to the condition that the disease in question was first diagnosed within its territory, such condition shall be deemed to be satisfied if the disease was first diagnosed in the territory of another Member State.

3 If, under the legislation of a Member State, the granting of benefits in respect of an occupational disease is subject to the condition that the disease in question was diagnosed within a specific time limit following cessation of the last activity which was likely to cause such a disease, the competent institution of that State, when checking the time at which such activity was pursued, shall take into account, to the extent necessary, similar activities pursued under the legislation of any other Member State, as if they had been pursued under the legislation of the first State.

4 If, under the legislation of a Member State, the granting of benefits in respect of an occupational disease is subject to the condition that an activity likely to cause the disease in question was pursued for a certain length of time, the competent institution of the State shall take into account, to the extent necessary, periods during which such activity was pursued under the legislation of any other Member State, as if it had been pursued under the legislation of the first State.

5 In cases of sclerogenic pneumoconiosis, the cost of cash benefits, including pensions, shall be divided among the competent institutions of the Member States in whose territory the person concerned pursued an activity likely to cause the disease. This division shall be carried out on the basis of the ratio which the length of the periods of old-age insurance or residence referred to in Article 45 (1) completed under the legislation of each of the States bears to the total length of the periods of old-age insurance or residence completed under the legislation of all the States at the dates on which the benefits commenced.

6 The Council shall determine unanimously, on a proposal from the Commission, the occupational diseases to which the provisions of paragraph 5 shall be extended.

Status: Point in time view as at 05/05/2005.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1408/71 (repealed), Section 1. (See end of Document for details)

Article 58

Calculation of cash benefits

1 The competent institution of a Member State whose legislation provides that the calculation of cash benefits shall be based on average earnings shall determine such average earnings exclusively by reference to earnings confirmed as having been paid during the periods completed under the said legislation.

2 The competent institution of a Member State whose legislation provides that the calculation of cash benefits shall be based on standard earnings shall take account exclusively of the standard earnings, or where appropriate, of the average of standard earnings for the periods completed under the said legislation.

3 The competent institution of a Member State whose legislation provides that the amount of cash benefits shall vary with the number of members in the family shall take into account also the members of the family of the person concerned who are residing in the territory of another Member State, as if they were residing in the territory of the competent State.

Article 59

Costs of transporting a person who has sustained an accident at work or is suffering from an occupational disease

1 The competent institution of a Member State whose legislation provides for meeting the costs of transporting a person who has sustained an accident at work or is suffering from an occupational disease, either to his place of residence or to a hospital, shall meet such costs to the corresponding place in the territory of another Member State where the person resides, provided that that institution gives prior authorization for such transport, duly taking into account the reasons justifying it. Such authorization shall not be required in the case of a frontier worker.

2 The competent institution of a Member State whose legislation provides for the costs of transporting the body of a person killed in an accident at work to the place of burial shall, in accordance with the provisions of the legislation which it administers, meet such costs to the corresponding place in the territory of another Member State, where the person was residing at the time of the accident.

Status:

Point in time view as at 05/05/2005.

Changes to legislation:

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