

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 (repealed)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 I

SICKNESS AND MATERNITY

Section 1

Common provisions

Article 18

Aggregation of periods of insurance, employment or residence

1 The competent institution of a Member State whose legislation makes the acquisition, retention or recovery of the right to benefits conditional upon the completion of periods of insurance, employment or residence shall, to the extent necessary, take account of periods of insurance, employment or residence completed under the legislation of any other Member State as if they were periods completed under the legislation which it administers.

2 The provisions of paragraph 1 shall apply to seasonal workers, even in respect of periods prior to any break in insurance exceeding the period allowed by the legislation of the competent State, provided, however, that the person concerned has not ceased to be insured for a period exceeding four months.

Section 2

Employed or self-employed persons and members of their families

Article 19

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

1 An employed or self-employed person residing in the territory of a Member State other than the competent State, who satisfies the conditions of the legislation of the competent State for entitlement to benefits, taking account where appropriate of the provisions of Article 18, shall receive in the State in which he is resident:

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1408/71 (repealed), CHAPTER I. (See end of Document for details)

- a benefits in kind provided on behalf of the competent institution by the institution of the place of residence in accordance with the provisions of the legislation administered by that institution as though he were insured with it;
- b 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 residence, such benefits may be provided by the latter institution on behalf of the former, in accordance with the legislation of the competent State.

2 The provisions of paragraph 1 shall apply by analogy to members of the family who reside in the territory of a Member State other than the competent State in so far as they are not entitled to such benefits under the legislation of the State in whose territory they reside.

Where the members of the family reside in the territory of a Member State under whose legislation the right to receive benefits in kind is not subject to condition of insurance or employment, benefits in kind which they receive shall be considered as being on behalf of the institution with which the employed or self-employed person is insured, unless the spouse or the person looking after the children pursues a professional or trade activity in the territory of the said Member State.

Article 20

Frontier workers and members of their families — Special rules

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 though the person concerned were resident in that State. Members of his family may receive benefits under the same conditions; however, receipt of such benefits shall, except in urgent cases, be conditional upon an agreement between the States concerned or between the competent authorities of those States or, in its absence, on prior authorization by the competent institution.

Article 21

Stay in or transfer of residence to the competent State

1 The employed or self-employed person referred to in Article 19 (1) who is staying in the territory of the competent State shall receive benefits in accordance with the provisions of the legislation of that State as though he were resident there, even if he has already received benefits for the same case of sickness or maternity before his stay.

2 Paragraph 1 shall apply by analogy to the members of the family referred to in Article 19 (2).

However, where the latter reside in the territory of a Member State other than the one in whose territory the employed or self-employed person resides, benefits in kind shall be provided by the institution of the place of stay on behalf of the institution of the place of residence of the persons concerned.

3 Paragraphs 1 and 2 shall not apply to frontier workers and the members of their families.

4 An employed or self-employed person and members of his family referred to in Article 19 who transfer their residence to the territory of the competent State shall receive benefits in

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accordance with the provisions of the legislation of that State even if they have already received benefits for the same case of sickness or maternity before transferring their residence.

Article 22

Stay outside the competent State — Return to or transfer of residence to another Member State during sickness or maternity — Need to go to another Member State in order to receive appropriate treatment

1 An employed or self-employed person who satisfies the conditions of the legislation of the competent State for entitlement to benefits, taking account where appropriate of the provisions of Article 18, and:

- (a) [^{F1}whose condition requires benefits in kind which become necessary on medical grounds during a stay in the territory of another Member State, taking into account the nature of the benefits and the expected length of the stay;]
 - (b) who, 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 resides, or to transfer his 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 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 which it administers, as though he were insured with it; the length of the period during which benefits are provided shall be governed, however, by the legislation of the competent State;
- (ii) to 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 stay or residence, such benefits may be provided by the latter institution on behalf of the former, in accordance with the provisions of the legislation of the competent State.

[^{F2}1a The Administrative Commission shall establish a list of benefits in kind which, in order to be provided during a stay in another Member State, require, for practical reasons, a prior agreement between the person concerned and the institution providing the care;]

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 the receipt of medical treatment.

The authorization required under paragraph 1 (c) may not be refused where the treatment in question is among the benefits provided for by the legislation of the Member State on whose territory the person concerned resided and where he cannot be given such treatment within the time normally necessary for obtaining the treatment in question in the Member State of residence taking account of his current state of health and the probable course of the disease.

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3 ^{[F1}Paragraphs 1, 1a and 2 shall apply by analogy to members of the family of an employed or self-employed person.]

However, for the purpose of applying paragraph 1 (a) and (c) (i) to the members of the family referred to in Article 19 (2) who reside in the territory of a Member State other than the one in whose territory the employed or self-employed person resides:

- a benefits in kind shall be provided on behalf of the institution of the Member State in whose territory the members of the family are residing by the institution of the place of stay in accordance with the provisions of the legislation which it administers as if the employed or self-employed person were insured there. The period during which benefits are provided shall, however, be that laid down under the legislation of the Member State in whose territory the members of the family are residing;
- b the authorization required under paragraph 1 (c) shall be issued by the institution of the Member State in whose territory the members of the family are residing.

4 The fact that the provisions of paragraph 1 apply to an employed or self-employed person shall not affect the right to benefit of members of his family.

Textual Amendments

- F1** 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).
- F2** 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).

[F1 Article 22a

Special rules for certain categories of persons

Notwithstanding Article 2, Article 22(1)(a) and (c) and (1a) shall also apply to persons who are nationals of one of the Member States and who are insured under the legislation of a Member State and to the members of their families residing with them.]

Textual Amendments

- F1** 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 (EC) No 1408/71 (repealed), CHAPTER I. (See end of Document for details)

F3 Article 22b (15)

[^{F3}Employment in a Member State other than the competent State — Stay in the State of employment]

Textual Amendments

- F3** 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).

F4 Article 22c

Textual Amendments

- F4** Deleted by Council Regulation (EC) No 307/1999 of 8 February 1999.

Article 23 (a)

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 or on average contributions, shall determine such average earnings or contributions exclusively by reference to earnings or contributions completed under the said legislation.

[^{F5}2a The provisions of paragraphs 1 and 2 shall also apply where the legislation applied by the competent institution provides for a specific reference period and this period coincides, where appropriate, with the whole or part of the periods completed by the person concerned under the legislation of one or more other Member States.]

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

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

Article 24

Substantial benefits in kind

1 Where the right of an employed or self-employed person or a member of his family to a prosthesis, a major appliance or other substantial benefits in kind has been recognized by the institution of a Member State before he becomes insured with the institution of another Member State, the said employed or self-employed person shall receive such benefits at the expense of the first institution, even if they are granted after he becomes insured with the second institution.

2 The Administrative Commission shall draw up the list of benefits to which the provisions of paragraph 1 apply.

Section 3

Unemployed persons and members of their families

Article 25

[^{F1} An unemployed person who was formerly employed or self-employed and to whom the provisions of Article 69(1) or Article 71(1)(b)(ii), second sentence apply and who satisfies the conditions laid down in the legislation of the competent State for entitlement to benefits in kind and cash benefits, taking account where necessary of the provisions of Article 18, shall receive for the period of time referred to in Article 69(1)(c):

- a benefits in kind which become necessary on medical grounds for this person during his stay in the territory of the Member State where he is seeking employment, taking account of the nature of the benefits and the expected length of the stay. These benefits in kind shall be provided on behalf of the competent institution by the institution of the Member State in which the person is seeking employment, in accordance with the provisions of the legislation which the latter institution 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 Member State in which the unemployed person seeks employment, benefits may be provided by the latter institution on behalf of the former institution in accordance with the provisions of the legislation of the competent State. Unemployment benefits under Article 69(1) shall not be granted for the period during which cash benefits are received.

1a Article 22(1a) shall apply by analogy.]

2 A totally unemployed person who was formerly employed and to whom the provisions of Article 71 (1) (a) (ii) or the first sentence of Article 71 (1) (b) (ii) apply, shall receive benefits in kind and in cash in accordance with the provisions of the legislation of the Member State in whose territory he resides, as though he had been subject to that legislation during his last employment, taking account where appropriate of the provisions of Article 18; the cost of such benefits shall be met by the institution of the country of residence.

3 Where an unemployed person satisfies the conditions of the legislation of the Member State which is responsible for the cost of unemployment benefits for entitlement to sickness and maternity benefits, taking account where appropriate of the provisions of Article 18, the

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members of his family shall receive these benefits, irrespective of the Member State in whose territory they reside or are staying. Such benefits shall be provided:

- i with regard to the benefits in kind, by the institution of the place of residence or stay in accordance with the provisions of the legislation which it administers, on behalf of the competent institution of the Member State which is responsible for the cost of unemployment benefits;
- ii with regard to cash benefits, by the competent institution of the Member State which is responsible for the cost of unemployment benefits, in accordance with the legislation which it administers.

4 Without prejudice to any provisions of the legislation of a Member State which permit an extension of the period during which sickness benefits may be granted, the period provided for in paragraph 1 may, in cases of force majeure, be extended by the competent institution within the limit fixed by the legislation administered by that institution.

Textual Amendments

- F1** 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 25a (12)

Contributions payable by wholly unemployed persons

The institution which is responsible for granting benefits in kind and cash benefits to the unemployed persons referred to in Article 25 (2) and which belongs to a Member State whose legislation provides for deduction of contributions payable by unemployed persons to cover sickness and maternity benefits shall be authorized to make such deductions in accordance with the provisions of its legislation.

Section 4

Pension claimants and members of their families

Article 26

Right to benefits in kind in cases of cessation of the right to benefits from the institution which was last competent

1 An employed or self-employed person, members of his family or his survivors who, during the investigation of a claim for pension, cease to be entitled to benefits in kind under the legislation of the Member State last competent, shall nevertheless receive such benefits under the following conditions: benefits in kind shall be provided in accordance with the provisions of the legislation of the Member State in whose territory the person or persons concerned reside, provided that they are entitled to such benefits under that legislation or would be entitled to

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them under the legislation of another Member State if they were residing in the territory of that State, taking account where appropriate of the provisions of Article 18.

2 A pension claimant who is entitled to benefits in kind under the legislation of a Member State which obliges the person concerned to pay sickness insurance contributions himself during the investigation of his pension claim shall cease to be entitled to benefits in kind at the end of the second month for which he has not paid the contributions due.

3 Benefits in kind provided in accordance with the provisions of paragraph 1 shall be chargeable to the institution which has collected contributions in accordance with the provisions of paragraph 2; where no contributions are payable under the provisions of paragraph 2, the institution responsible for the cost of the benefits in kind after awarding the pension in accordance with the provisions of Article 28 shall refund the amount of the benefits provided to the institution of the place of residence.

Section 5

Pensioners and members of their families

Article 27

Pensions payable under the legislation of several States where there is a right to benefits in the country of residence

A pensioner who is entitled to draw pensions under the legislation of two or more Member States, of which one is that of the Member State in whose territory he resides, and who is entitled to benefits under the legislation of the latter Member State, taking account where appropriate of the provisions of Article 18 and Annex VI, shall, with the members of his family, receive such benefits from the institution of the place of residence and at the expense of that institution as though the person concerned were a pensioner whose pension was payable solely under the legislation of the latter Member State.

Article 28

Pensions payable under the legislation of one or more States, in cases where there is no right to benefits in the country of residence

1 A pensioner who is entitled to a pension under the legislation of one Member State or to pensions under the legislation of two or more Member States and who is not entitled to benefits under the legislation of the Member State in whose territory he resides shall nevertheless receive such benefits for himself and for members of his family, in so far as he would, taking account where appropriate of the provisions of Article 18 and Annex VI, be entitled thereto under the legislation of the Member State or of at least one of the Member States competent in respect of pensions if he were resident in the territory of such State. The benefits shall be provided under the following conditions:

- a benefits in kind shall be provided on behalf of the institution referred to in paragraph 2 by the institution of the place of residence as though the person concerned were a pensioner under the legislation of the State in whose territory he resides and were entitled to such benefits;

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

- b cash benefits shall, where appropriate, be provided by the competent institution as determined by the rules of paragraph 2, in accordance with the legislation which it administers. However, upon agreement between the competent institution and the institution of the place of residence, such benefits may be provided by the latter institution on behalf of the former, in accordance with the legislation of the competent State.
- 2 In the cases covered by paragraph 1, the cost of benefits in kind shall be borne by the institution as determined according to the following rules:
- a where the pensioner is entitled to the said benefits under the legislation of a single Member State, the cost shall be borne by the competent institution of that State;
 - b where the pensioner is entitled to the said benefits under the legislation of two or more Member States, the cost thereof shall be borne by the competent institution of the Member State to whose legislation the pensioner has been subject for the longest period of time; should the application of this rule result in several institutions being responsible for the cost of benefits the cost shall be borne by the institution administering the legislation to which the pensioner was last subject.

Article 28a

Pensions payable under the legislation of one or more of the Member States other than the country of residence where there is a right to benefits in the latter country

Where the pensioner entitled to a pension under the legislation of one Member State, or to pensions under the legislations of two or more Member States, resides in the territory of a Member State under whose legislation the right to receive benefits in kind is not subject to conditions of insurance or employment, nor is any pension payable, the cost of benefits in kind provided to him and to members of his family shall be borne by the institution of one of the Member States competent in respect of pensions, determined according to the rules laid down in Article 28 (2), to the extent that the pensioner and members of his family would have been entitled to such benefits under the legislation administered by the said institution if they resided in the territory of the Member State where that institution is situated.

Article 29

Residence of members of the family in a State other than the one in which the pensioner resides — Transfer of residence to the State where the pensioner resides

1 Members of the family of a pensioner entitled to a pension under the legislation of one Member State or to pensions under the legislation of two or more Member States who reside in the territory of a Member State other than the one in which the pensioner resides shall, where he is entitled to benefits under the legislation of one Member State, receive benefits as though the pensioner were resident in the same territory as themselves. Benefit shall be provided under the following conditions:

- [^{F6}a benefits in kind shall be provided by the institution of the place of residence of the members of the family in accordance with the provisions of the legislation which that institution administers, the cost being borne by the institution determined in accordance with the provisions of Article 27 or Article 28(2); if the place of residence is situated in the competent Member State, benefits in kind shall be provided, and the cost borne, by the competent institution;]

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

- b cash benefits shall, where appropriate, be provided by the competent institution as determined by the provisions of Article 27 or 28 (2), in accordance with the provisions of the legislation which it administers. However, upon agreement between the competent institution and the institution of the place of residence of the members of the family, such benefits may be provided by the latter institution on behalf of the former, in accordance with the provisions of the legislation of the competent State.
- 2 Members of the family referred to in paragraph 1 who transfer their residence to the territory of the Member State where the pensioner resides, shall receive:
- a benefits in kind under the provisions of the legislation of that State, even if they have already received benefits for the same case of sickness or maternity before transferring their residence;
 - b cash benefits provided where appropriate by the competent institution determined by the provisions of Article 27 or 28 (2), in accordance with the legislation which it administers. However, upon agreement between the competent institution and the institution of the place of residence of the pensioner, such benefits may be provided by the latter institution on behalf of the former, in accordance with the provisions of the legislation of the competent State.

Textual Amendments

F6 Inserted by [Council Regulation \(EC\) No 1223/98 of 4 June 1998](#).

Article 30

Substantial benefits in kind

The provisions of Article 24 shall apply by analogy to pensioners.

[^{F1}Article 31

Stay of a pensioner and/or members of his family in a Member State other than the State in which they reside

- 1 A pensioner entitled to a pension or pensions under the legislation of one Member State or to pensions under the legislation of two or more Member States who is entitled to benefits under the legislation of one of those States shall, with members of his family who are staying in the territory of a Member State other than the State in which they reside, receive:
- a benefits in kind which become necessary on medical grounds during a stay in the territory of the Member State other than the State of residence, taking into account the nature of the benefits and the expected length of the stay. These benefits in kind shall be provided by the institution of the place of stay, in accordance with the provisions of the legislation which it administers, on behalf of the institution of the place of residence of the pensioner or of the members of his family;
 - b cash benefits provided, where appropriate, by the competent institution as determined by Article 27 or 28(2), in accordance with the provisions of the legislation which it administers. However, upon agreement between the competent institution and the institution of the place of stay, these benefits may be provided by the latter institution on behalf of the former, in accordance with the provisions of the legislation of the competent State.

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), CHAPTER I. (See end of Document for details)

2 Article 22(1a) shall apply by analogy.]

Textual Amendments

- F1** 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 32 (15)

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Article 33 (7)

Contributions payable by pensioners

1 The institution of a Member State which is responsible for payment of a pension and which administers legislation providing for deductions from pensions in respect of contributions for sickness and maternity shall be authorized to make such deductions, calculated in accordance with the legislation concerned, from the pension payable by such institution, to the extent that the cost of the benefits under Article 27, 28, 28a, 29, 31 and 32 is to be borne by an institution of the said Member State.

2 Where, in the cases referred to in Article 28a, the acquisition of benefits in respect of sickness and maternity is subject to the payment of contributions or similar payments under the legislation of a Member State in whose territory the pensioner in question resides, by virtue of such residence, these contributions shall not be payable.

Article 34

General provisions

1 For the purposes of Articles 28, 28a, 29 and 31, a pensioner who is in receipt of two or more pensions due under the legislation of a single Member State shall be regarded as a pensioner entitled to draw a pension under the legislation of one Member State, within the meaning of these provisions.

2 Articles 27 to 33 shall not apply to a pensioner or to members of his family who are entitled to benefits under the legislation of a Member State as a result of pursuing a professional or trade activity. In such a case, the person concerned shall, for the purposes of the implementation of this chapter, be considered as an employed or self-employed person or as a member of an employed or self-employed person's family.

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

[^{F7}Section 5a

Persons who study or receive vocational training and members of their families

[^{F1}Article 34a

Special provisions for students and members of their families

Articles 18, 19, 22(1)(a) and (c) and (1a), 22(2), second subparagraph, 22(3), 23 and 24 and sections 6 and 7 shall apply by analogy to students and the members of their families as required.]

Textual Amendments

- F1** 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).

^{F3}Article 34b

[^{F3}Common provisions]]

Textual Amendments

- F3** 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).

Textual Amendments

- F7** Inserted by Council Regulation (EC) No 307/1999 of 8 February 1999.

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), CHAPTER I. (See end of Document for details)

Section 6

Miscellaneous provisions

Article 35

Scheme applicable where there are a number of schemes in the country of residence or stay — Previous illness — Maximum period during which benefits are granted

1 Subject to paragraph 2, where the legislation of the country of stay or residence contains several sickness or maternity insurance schemes, the provisions applicable under Article 19, 21 (1), 22, 25, 26, 28 (1), 29 (1) or 31 shall be those of the scheme covering manual workers in the steel industry. Where, however, the said legislation includes a special scheme for workers in mines and similar undertakings, the provisions of such scheme shall apply to that category of workers and members of their families provided the institution of the place of stay or residence to which application is made is competent to administer such scheme.

^{F8}2

3 Where, under the legislation of a Member State, the granting of benefits is conditional upon the origin of the illness, that conditions [^{F7}shall not apply to persons] to whom this Regulation applies, regardless of the Member State in whose territory they reside.

4 Where the legislation of a Member State fixes a maximum period for the granting of benefits, the institution which administers that legislation may, where appropriate, take account of the period during which the benefits have already been provided by the institution of another Member State for the same case of sickness or maternity.

Textual Amendments

F7 Inserted by [Council Regulation \(EC\) No 307/1999 of 8 February 1999](#).

F8 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](#).

Section 7

Reimbursement between institutions

Article 36 (15)

1 Benefits in kind provided in accordance with the provisions of this chapter by the institution of one Member State on behalf of the institution of another Member State shall be fully refunded.

2 The refunds referred to in paragraph 1 shall be determined and made in accordance with the procedure provided for by the implementing Regulation referred to in Article 98, either on production of proof of actual expenditure or on the basis of lump-sum payments.

In the latter case, the lump-sum payments shall be such as to ensure that the refund is as close as possible to actual expenditure.

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

3 Two or more Member States, or the competent authorities of those States, may provide for other methods of reimbursement or may waive all reimbursement between institutions under their jurisdiction.

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), CHAPTER I.