

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to their families moving within the Community (Consolidated version — OJ No L 28 of 30. 1. 1997, p. 1See annex B.) (repealed)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

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Regulation:

- (a) ‘Regulation’ means Regulation (EEC) No 1408/71;
- (b) ‘implementing Regulation’ means this Regulation;
- (c) the definitions in Article 1 of this Regulation have the meaning assigned to them in the said Article.

Article 2

Printed model forms — Information on legislations — Guides

[^{F1} Models of the documents necessary for application of the Regulation and of the implementing Regulation shall be drawn up by the Administrative Commission.

These documents may be transferred between institutions either in paper or other form or by means of telematic services as standardised electronic messages in accordance with Title VIa. The exchange of information by means of telematic services shall be subject to agreement between the competent authorities or the bodies designated by the competent authorities of the sending Member State and those of the receiving Member State.]

2 For the benefit of the competent authorities of each Member State, the Administrative Commission may assemble information on the provisions which come within the scope of this Regulation.

3 The Administrative Commission shall prepare guides for the purpose of advising persons concerned of their rights and of the administrative formalities to be completed for the exercise of those rights.

The Advisory Committee shall be consulted before such guides are drawn up.

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](#)

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 574/72 (repealed).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

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 3 (7)

Liaison bodies — Communications between institutions and between beneficiaries and institutions

1 The competent authorities may designate liaison bodies which may communicate directly with each other.

2 Any institution of a Member State, and any person residing or staying in the territory of a Member State, may make application to the institution of another Member State, either directly or through the liaison bodies.

3 Decisions and other documents emanating from an institution of a Member State and intended for persons residing or staying in the territory of another Member State may be communicated directly by registered letter with acknowledgement of receipt.

Article 4 (9)

Annexes

1 The competent authority or authorities of each Member State are listed in Annex I.

2 The competent institutions of each Member State are listed in Annex 2.

3 The institutions of the place of residence and the institutions of the place of stay of each Member State are listed in Annex 3.

4 The liaison bodies designated pursuant to Article 3 (1) of the implementing Regulation are listed in Annex 4.

5 The provisions referred to in Articles 5, 53 (3), 104, 105 (2), 116 and 121 of the implementing Regulation are listed in Annex 5.

6 The procedure for the payment of benefits chosen by the institutions responsible for payment in each Member State, in accordance with Article 53 (1) of the implementing Regulation, is listed in Annex 6.

7 The names and registered offices or place of business of the banks referred to in Article 55 (1) of the implementing Regulation are listed in Annex 7.

8 The Member States to which the provisions of Article 10a (1) (d) of the implementing Regulation apply in their dealings with each other are listed in Annex 8.

9 The schemes to be taken into consideration when calculating the average annual cost of benefits in kind, in accordance with Articles 94 (3) (a) and 95 (3) (a) of the implementing Regulation, are listed in Annex 9.

10 Annex 10 lists the institutions or bodies designated by the competent authorities pursuant, in particular, to the following provisions:

- a Regulation: Article 14c, Article 14d (3) and 17;

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- b implementing Regulation: Article 6 (1), Article 8, Articles 10b, 11 (1), 11a (1), 12a, 13 (3) and (3), 14 (1), (2) and (3), 38 (1), 70 (1), 80 (2), 81, 82 (2), 85 (2), 86 (2), 89 (1), 91 (2), 102 (2), 109, 110, 113 (2).

F²11

Textual Amendments

F2 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.

TITLE II

IMPLEMENTATION OF THE GENERAL PROVISIONS OF THE REGULATION

Implementation of Articles 6 and 7 of the Regulation

Article 5

Replacement by the implementing Regulation of arrangements for implementing conventions

The provisions of the implementing Regulation shall replace those of the arrangements for implementing the conventions referred to in Article 6 of the Regulation; they shall also replace the provisions relating to the implementation of the provisions of the conventions referred to in Article 7 (2) (c) of the Regulation in so far as they are not listed in Annex 5.

Implementation of Article 9 of the Regulation

Article 6

Admission to voluntary or optional continued insurance

1 If, by virtue of Articles 9 and 15 (3) of the Regulation, a person satisfies the conditions for admission to a voluntary or optional continued insurance in respect of invalidity, old age and death (pensions) in several schemes under the legislation of one Member State, and if he has not been subject to compulsory insurance under one of those schemes by virtue of his last employment or self-employment he may, under the said Articles, join the voluntary or optional continued insurance scheme specified by the legislation of that Member State or, failing that, the scheme of his choice.

2 In order to invoke the provisions of Article 9 (2) of the Regulation, a person shall submit to the institution of the Member State in question a certified statement relating to the insurance periods or periods of residence completed under the legislation of any other Member State. Such certified statement shall be issued, at the request of the person concerned, by the

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institution or institutions who administer the legislation under which he has completed those periods.

Implementation of Article 12 of the Regulation

Article 7 (11)

General rules on the application of the provisions designed to prevent overlapping

1 Where the benefits due under the legislation of two or more Member States are conditional upon mutual reductions, suspensions or withdrawals, the amounts which would not be paid in strict application of the provisions concerning reduction, suspension or withdrawal provided for by the legislation of the Member States concerned shall be divided by the number of benefits subject to reduction, suspension or withdrawal.

2 In order to implement Article 12 (2), (3) and (4), Article 46a, Article 46b and Article 46c of the Regulation, the competent institutions concerned shall provide each other, at their own request, with all appropriate information.

Article 8 (5)

Rules applicable in the case of overlapping of rights to sickness or maternity benefits under the legislation of several Member States

1 If an employed or self-employed person or a member of his family is entitled to claim maternity benefits under the legislations of two or more Member States, those benefits shall be granted exclusively under the legislation of the Member State in whose territory the confinement took place or, if the confinement did not take place in the territory of one of these Member States, exclusively under the legislation of the Member State to which the employed or self-employed person was last subject.

2 If an employed or self-employed person is entitled to claim sickness benefits under the legislation of Ireland and the United Kingdom for the same period of incapacity for work, those benefits shall be granted exclusively under the legislation of the Member State to which the person concerned was last subject.

[^{F3} In the cases referred to in Article 14c(b) and 14f of the Regulation, where the person in question or a member of his family is entitled to claim benefits in kind in respect of sickness or maternity under the two legislations in question, the following rules shall be applicable:]

- a Where at least one of those legislations stipulates that the benefits shall be awarded in the form of a reimbursement to the person entitled to benefit, this shall be the exclusive responsibility of the institution of the Member State in whose territory they have been awarded.
- b If the benefits have been awarded in the territory of a Member State other than the two Member States in question, they shall be the exclusive responsibility of the institution of the Member State to whose legislation the person in question is subject by virtue of his paid employment.

Textual Amendments

- F3** 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](#)

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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.

Article 8a

Rules applicable in the case of overlapping of rights to sickness benefits, benefits with respect to accidents at work or occupational disease under Greek legislation and the legislation of one or more other Member States

If during the same period an employed or self-employed person or member of his family is entitled to claim sickness benefits, benefits with respect to accidents at work or occupational disease under Greek legislation and under the legislation of one or more Member States, these benefits shall be granted exclusively under the legislation to which the person concerned was last subject.

Article 9 (5)

Rules applicable in the case of overlapping of rights to death grants under the legislation of several Member States

1 Where the death occurs in the territory of a Member State, the right to a death grant acquired under the legislation of that Member State only shall be maintained, whilst the right acquired under the legislation of any other Member State shall lapse.

2 Where the death occurs in the territory of one Member State when the right to a death grant has been acquired under the legislation of two or more other Member States, or where the death occurs outside the territory of the Member States and the said right has been acquired under the legislation of two or more Member States, only the right acquired under the legislation of the Member State to which the deceased person was last subject shall be maintained, whilst the right acquired under the legislation of any other Member State shall lapse.

[^{F3} By way of derogation from paragraphs 1 and 2, in the cases referred to in Articles 14c(b) or 14f of the Regulation, any entitlement to death grants acquired under the legislation of the Member States concerned shall be retained.]

Textual Amendments

- F3** 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.](#)

Article 9a

Rules applicable in the case of overlapping of rights to unemployment benefits

If an employed or self-employed person, entitled to unemployment benefits under the legislation of a Member State to which he was subject during his last employment or self-employment pursuant to Article 69 of the Regulation, goes to Greece where he is

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also entitled to unemployment benefits by virtue of a period of insurance, employment or self-employment previously completed under Greek legislation, the right to benefits under Greek legislation shall be suspended for the period laid down in Article 69 (1) (c) of the Regulation.

Article 10 (12) (13)

Rules applicable in the case of overlapping of rights to family benefits or family allowances for employed or self-employed persons

1

- a Entitlement to benefits or family allowances due under the legislation of a Member State, according to which acquisition of the right to those benefits or allowances is not subject to conditions of insurance, employment or self-employment, shall be suspended when, during the same period and for the same member of the family, benefits are due only in pursuance of the national legislation of another Member State or in application of Articles 73, 74, 77 or 78 of the Regulation, up to the sum of those benefits
- b However, where a professional or trade activity is carried out in the territory of the first member State:
 - (i) in the case of benefits due either only under national legislation of another Member State or under Articles 73 or 74 of the Regulation to the person entitled to family benefits or to the person to whom they are to be paid, the right to family benefits due either only under national legislation of that other Member State or under these Articles shall be suspended up to the sum of family benefits provided for by the legislation of the Member State in whose territory the member of the family is residing. The cost of the benefits paid by the Member State in whose territory the member of the family is residing shall be borne by that Member State;
 - (ii) in the case of benefits due either only under national legislation of another Member State or under articles 77 or 78 of the Regulation, to the person entitled to these benefits or to the person to whom they are payable, the right to these family benefits or family allowances due either only under the national legislation of that other Member State or in application of those Articles shall be suspended; where this is the case, the person concerned shall be entitled to the family benefits or family allowances of the Member State in whose territory the children reside, the cost to be borne by that Member State, and, where appropriate, to benefits other than the family allowances referred to in Article 77 or Article 78 of the Regulation, the cost to be borne by the competent State as defined by those Articles.

2 If an employed person subject to the legislation of a Member State is entitled to family allowances by virtue of periods of insurance or employment previously completed under Greek legislation, this right shall be suspended where, during the same period and for the same member of the family, family benefits or allowance are due under the legislation of the first Member State pursuant to Articles 73 and 74 of the Regulation, up to the sum of those benefits.

3 Where family benefits are due, over the same period and for the same member of the family, from two Member States pursuant to Articles 73 and/or 74 of the Regulation, the competent institution of the Member State with legislation providing for the highest levels of benefit shall pay the full amount of such benefit and be reimbursed half this sum by the

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competent institution of the other Member State up to the limit of the amount provided for in the legislation of the latter Member State.

Article 10a (8)

Rules applicable where an employed or self-employed person is subject successively to the legislation of several Member States during the same period or part of a period

Where an employed or self-employed person has been subject successively to the legislation of two Member States during the period separating two dates for the payment of family benefits as provided for by the legislation of one or both of the Member States concerned, the following rules shall apply:

- (a) The family benefits which the person concerned may claim by virtue of being subject to the legislation of each one of these States shall correspond to the number of daily benefits due under the relevant legislation. Where such legislation does not provide for daily benefits, the family benefits shall be granted in proportion to the length of time during which the person concerned has been subject to the legislation of each one of the Member States in relation to the period fixed by the legislation concerned.
- (b) Where the family benefits have been provided by an institution during a period when they should have been provided by another institution, there shall be an adjustment of accounts between the said institutions.
- (c) For the purposes of subparagraphs (a) and (b), where periods of employment or self-employment completed under the legislation of one Member State are expressed in units different from those which are used for the calculation of family benefits under the legislation of another Member State to which the person concerned has also been subject during the same period, the conversion shall be carried out in accordance with the provisions of Article 15 (3) of the implementing Regulation.
- (d) Notwithstanding the provisions of subparagraph (a) in respect of dealings between the Member States listed in Annex 8 to the implementing regulation, the institution bearing the costs of the family benefits by reason of the first employment or self-employment during the period concerned shall bear such costs throughout the entire current period.

TITLE III

IMPLEMENTATION OF THE PROVISIONS OF THE REGULATIONS FOR DETERMINING THE LEGISLATION APPLICABLE

Implementation of Articles 13 to 17 of the Regulation

Article 10b (9)

Formalities pursuant to Article 13 (2) (f) of the Regulation

The date and conditions on which the legislation of a Member State ceases to be applicable to a person referred to in Article 13 (2) (f) of the Regulation shall be determined in accordance with that legislation. The institution designated by the competent authority of the Member State whose legislation becomes applicable to the

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person shall apply to the institution designated by the competent authority of the former Member State with a request to specify this date.

F⁴ Article 10c

**Formalities laid down in the event of the application of Article 13(2)
(d) of the Regulation to civil servants and persons treated as such**

For the application of Article 13(2)(d), the institution designated by the competent authority of the Member State whose legislation is applicable shall issue a certificate stating that the civil servant or the person treated as such is subject to its legislation.]

Textual Amendments

- F4** 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.](#)

Article 11

Formalities in the case of the posting elsewhere of an employed person pursuant to Articles 14 (1) and 14b 81) of the Regulation and in the case of Agreements concluded under article 17 of the Regulation

1 The institutions designated by the competent authority of the Member State whose legislation is to remain applicable shall issue a certificate stating that an employed person shall remain subject to that legislation up to a specific date:

- a at the request of the employed person or his employer in cases referred to in Articles 14 (1) and 14b (1) of the Regulation;
- b in cases where article 17 of the Regulation applies.

2 The consent provided for in cases referred to in Articles 14 (1) (b) and 14b (1) of the Regulation shall be requested by the employer.

Article 11a

Formalities pursuant to Articles 14a (1) and 14b (2) of the Regulation and in the case of Agreements concluded under Article 17 of the Regulation in the case of work carried out in the territory of a Member State other than that in which the person concerned is normally self-employed

1 The institution designated by the competent authority of the Member State whose legislation is to remain applicable shall issue a certificate stating that the self-employed person shall remain subject to that legislation up to a specified date:

- a at the request of the self-employed person in cases referred to in Articles 14a (1) and 14b (2) of the Regulation;
- b in cases where Article 17 of the Regulation applies.

2 The consent provided for in cases referred to in Articles 14a (1) and 14b (2) of the Regulation shall be requested by the self-employed person.

Article 12

Special provisions concerning insurance of employed persons under the German social security scheme

Where, under the terms of Articles 13 (2) (a), 14 (1) and (2) or 14b (1) of the Regulation, or under an agreement concluded pursuant to Article 17 of the Regulation, German legislation applies to a person employed by an undertaking or employer whose registered office or place of business is not situated on German territory, and the person concerned has no fixed job on German territory, this legislation shall apply as if the person concerned were employed in his place of residence on German territory.

If the employed person has no residence on German territory, German legislation shall apply as if he were employed in a place for which the Allgemeine Ortskrankenkasse Bonn (Local General Sickness Fund of Bonn), Bonn, is competent.

Article 12 a (5)

[^{F5}Rules applicable in respect of the persons referred to in Article 14(2) and (3), Article 14a(2) to (4) and Article 14c of the Regulation who normally carry out an employed or self-employed activity in the territory of two or more Member States]

[^{F5}For the application of the provisions of Article 14(2) and (3), Article 14a(2) to (4) and Article 14c of the Regulation, the following rules shall apply:]

1. (a) A person who normally pursues his activity in the territory of two or more Member States or in an undertaking which has its registered office or place of business in the territory of one Member State and which straddles the common frontier of two Member States, or who is employed simultaneously in the territory of one Member State and self-employed in the territory of another Member State shall notify this situation to the institution designated by the competent authority of the Member State in the territory of which he resides.
- (b) Where the legislation of the Member State in the territory of which the person resides is not applicable to him, the institution designated by the competent authority of that Member State shall in turn notify the situation to the institution designated by the competent authority of the Member State whose legislation is applicable.
- 1(a) [^{F4}Where, in accordance with Article 14(2)(a) of the Regulation, a person who is a member of the travelling or flying personnel of an international transport undertaking is subject to the legislation of the Member State in whose territory the registered office or place of business of the undertaking, or the branch or permanent establishment employing him, is located, or where he resides and is predominantly employed, the institution designated by the competent authority of that Member State shall issue to the person concerned a certificate stating that he is subject to its legislation.]
2. (a) Where, in accordance with Article 14 (2) (b) (i) or the first sentence of paragraph 2 of Article 14a of the Regulation, a person who is normally

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employed or self-employed in the territory of two or more Member States and who pursues part of his activity in the Member State in whose territory he resides is subject to the legislation of that Member State, the institution designated by the competent authority of that Member State shall issue to the person concerned a certificate stating that he is subject to its legislation and shall send a copy thereof to the institution designated by the competent authority of any other Member State:

(i) in the territory of which the person concerned pursues a part of his activity,

and/or

(ii) if he is an employed person, in the territory of which an undertaking or an employer by whom he is employed has its registered office or place of business.

(b) The latter institution shall, where necessary, send to the institution designated by the competent authority of the Member State whose legislation is applicable the information necessary to assess the contributions for which the employer or employers and/or the person concerned are liable by virtue of that legislation.

3. (a) Where, in accordance with Article 14 (3) or 14a (3) of the Regulation, a person who is employed in the territory of one Member State by an undertaking which has its registered office or place of business in the territory of another Member State and which straddles the common frontier of those States, or who is self-employed in such an undertaking, is subject to the legislation of the Member State in whose territory the undertaking has its registered office or place of business, the institution designated by the competent authority of the latter Member State shall issue to the person concerned a certificate stating that he is subject to its legislation and shall send a copy thereof to the institution designated by the competent authority of any other Member State:

(i) in the territory of which the person concerned is employed or self-employed;

(ii) in the territory of which the person concerned resides.

(b) Paragraph 2 (b) above shall apply by analogy.

4. (a) Where, in accordance with Article 14 (2) (b) (ii) of the Regulation, an employed person who does not reside in the territory of any of the member States in which he is pursuing his activity is subject to the legislation of the Member State in whose territory is situated the registered office or place of business of the undertaking or individual employing him, the institution designated by the competent authority of the latter Member State shall issue to the employed person a certificate stating that he is subject to its legislation and shall send a copy thereof to the institution designated by the competent authority of any other Member State:

(i) in the territory of which the employed person pursues a part of his activity;

(ii) in the territory of which the employed person resides.

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- (b) Paragraph 2 (b) above shall apply by analogy.
5. (a) Where, in accordance with the provisions of the second sentence of paragraph 2 of Article 14a of the Regulation, a person who is normally self-employed in the territory of two or more Member States, but who does not pursue any part of his activity in the territory of the Member State in which he resides, is subject to the legislation of the Member State in whose territory he pursues his principal activity, the institution designated by the competent authority of the Member State in the territory of which he resides shall forthwith inform the institution designated by the competent authorities of the other Member States concerned.
- (b) The competent authorities of the Member States concerned or the institutions designated by those competent authorities shall by common agreement determine the legislation applicable to the person concerned, account being taken of the provisions of subparagraph (d) and, where appropriate, of the provisions of Article 14a (4) of the Regulation, within a period of not more than six months counting from the day on which the situation of the person concerned was notified to one of the institutions concerned.
- (c) The institution administering the legislation that has been determined as being applicable to the person concerned shall issue a certificate to that person showing that he is subject to that legislation and shall send a copy thereof to the other institutions concerned.
- (d) For the purpose of determining, in pursuance of the third sentence of Article 14a (2) of the Regulation, the principal activity of the person concerned, account shall be taken first and foremost of the locality in which the fixed and permanent premises from which the person concerned pursues his activities is situated. Failing this, account shall be taken of criteria such as the usual nature or the duration of the activities pursued, the number of services rendered and the income arising from those activities.
- (e) The institution concerned shall exchange all information necessary to determine both the principal activity of the person concerned and the contributions payable under the legislation that has been determined as being applicable to him.
6. (a) Without prejudice to paragraph 5, and in particular to subparagraph (b) thereof, if an institution designated by the competent authority of the Member State whose legislation would be applicable by virtue of Article 14a (2) or (3) of the Regulation establishes that the provisions of paragraph 4 of the said Article apply in the case of the person concerned, it shall notify the competent authorities of the other Member States concerned or the institutions designated by those authorities; where necessary, the legislation to be applicable to the person concerned shall be decided on by common agreement.
- (b) The information referred to in paragraph 2 (b) above shall be sent by the other institutions concerned to the institutions designated by the competent authority of the Member State whose legislation is determined to be applicable.
7. (a) Where, in accordance with Article 14c (a) of the Regulation, a person who is employed simultaneously in the territory of one Member State, and is

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self-employed in the territory of another Member State, is subject to the legislation of the Member State in whose territory he is engaged in paid employment, the institution designated by the competent authority of the latter Member State shall issue to the employed person a certificate stating that he is subject to its legislation and shall send a copy thereof to the institution designated by the competent authority of any other Member State:

- (i) in the territory of which that person is self-employed;
- (ii) in the territory of which that person resides.

(b) Paragraph 2 (b) above shall apply by analogy.

8. Where, in accordance with the provisions of Article 14 14c (b) of the Regulation, a person who is simultaneously employed in the territory of one Member State and self-employed in the territory of another Member State is subject to the legislation of two Member States, the provisions of points 1, 2, 3 and 4 shall be applicable in respect of paid employment, and the provisions of points 1, 2, 3, 5 and 6 shall be applicable mutatis mutandis in respect of self-employment.

The institution designated by the competent authorities of the two Member States, whose legislation is determined to be applicable, shall inform each other accordingly.

Textual Amendments

- F4** 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.
- F5** Substituted 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.

[^{F6}Article 12b

Rules applicable in respect of persons referred to in Articles 14e or 14f of the Regulation

The provisions of Article 12a(1), (2), (3) and (4) shall apply by analogy to those persons covered by Articles 14e or 14f of the Regulation. In cases covered by Article 14f of the Regulation, the institution designated by the competent authorities of the Member States whose legislation is determined to be applicable shall inform each other accordingly.]

Textual Amendments

- F6** Inserted 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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Article 13

Exercise of the right of option by persons employed by diplomatic missions and consular posts

1 The right of option provided for in Article 16 (2) of the Regulation must be exercised in the first instance within the three months following the date on which the employed person was engaged by the diplomatic mission or consular post concerned, or on which he entered into the personal service of agents of such mission or post. The option shall take effect on the date of entry into employment.

When the person concerned renews his right of option at the end of a calendar year, the option shall take effect on the first day of the following calendar year.

2 The person concerned who exercises his right of option shall inform the institution designated by the competent authority of the Member State for whose legislation he has opted, at the same time notifying his employer thereof. The said institution shall, where necessary, forward such information to all other institutions of the same Member State, in accordance with directives issued by the competent authority of that Member State.

3 The institution designated by the competent authority of the Member State for whose legislation the person concerned has opted shall issue to him a certificate testifying that he is subject to the legislation of that Member State while he is employed by the diplomatic mission or consular post in question or in the personal service of agents of such mission or post.

4 Where the person concerned has opted for German legislation to be applied, the provisions of that legislation shall be applied as though he were employed in the place where the German Government has its seat. The competent authority shall designate the competent sickness insurance institution.

Article 14

Exercise of right of option by auxiliary staff of the European Communities

1 The right of option provided for in Article 16 (3) of the Regulation must be exercised at the time when the contract of employment is concluded. The authority empowered to conclude such contract shall inform the institution designated by the competent authority of the Member State for whose legislation the auxiliary staff member has opted. The said institution shall, where necessary, forward such information to all other institutions of the same Member State.

2 The institution designated by the competent authority of the Member State for whose legislation the auxiliary staff member has opted shall issue to him a certificate testifying that his is subject to the legislation of that Member State while he is employed by the European Communities as an auxiliary staff member.

3 The competent authorities of the Member States shall, where necessary, designate the competent institutions in respect of members of the auxiliary staff of the European Communities.

4 Where an auxiliary staff member, employed in the territory of a Member State other than Germany, has opted for German legislation to be applied, the provisions of that legislation shall be applied as though the auxiliary staff member were employed in the place where the German Government has its seat. The competent authority shall designate the competent sickness insurance institution.

Status: Point in time view as at 02/03/2009.

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

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. [F³Nevertheless, 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 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.

Status: Point in time view as at 02/03/2009.

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

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;
 - (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;

Status: Point in time view as at 02/03/2009.

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

- (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

- F3** 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.](#)

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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

Textual Amendments

- F7** 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 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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

[^{F12} Article 17(9) of the implementing Regulation 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](#)

Status: Point in time view as at 02/03/2009.

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

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

^{F7}Article 20

[^{F7}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

- F7** 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).

[^{F1}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

- 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

Status: Point in time view as at 02/03/2009.

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

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.

[^{F12} 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.

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 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.

[^{F1} 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

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

Status: Point in time view as at 02/03/2009.

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

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

[^{F1} 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.]

[^{F8}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 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.

[^{F13} 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.

Status: Point in time view as at 02/03/2009.

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

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

- 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).
- F8** 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.

Status: Point in time view as at 02/03/2009.

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

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^[F9] 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 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^[F9] 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^[F9] residing in the same Member State] shall inform the institution of the place of residence of any entitlement to benefits in kind, in

Status: Point in time view as at 02/03/2009.

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

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

- F9** 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^[F9] 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 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. ^[F10]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]. ^[F9]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.

^[F10]3 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.]

Status: Point in time view as at 02/03/2009.

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

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.

[^{F95} 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

- F9** 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.
- F10** 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

[^{F1}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 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

- 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

Status: Point in time view as at 02/03/2009.

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

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.

Implementation of Article 35 (2) of the Regulation

^{F2}Article 32a

[^{F2}Special schemes applying to certain self-employed persons]

Textual Amendments

- F2** 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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

[^{F115} 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

F11 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](#)

Status: Point in time view as at 02/03/2009.

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

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 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,

Status: Point in time view as at 02/03/2009.

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

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);
 - (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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

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.

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:

Status: Point in time view as at 02/03/2009.

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

- 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 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

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

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.

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 it 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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

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 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.

Status: Point in time view as at 02/03/2009.

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

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 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

Status: Point in time view as at 02/03/2009.

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

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 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.

Status: Point in time view as at 02/03/2009.

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

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 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.

Status: Point in time view as at 02/03/2009.

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

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, 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.

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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.

Status: Point in time view as at 02/03/2009.

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

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

- F12** 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 receive 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.

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

Status: Point in time view as at 02/03/2009.

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

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

[^{F13}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 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

F13 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).

Status: Point in time view as at 02/03/2009.

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

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.

[^{F13}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

F13 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 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.

Status: Point in time view as at 02/03/2009.

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

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 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 [F13:in Article 21] of the implementing Regulation.

Status: Point in time view as at 02/03/2009.

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

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

F13 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 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.

Status: Point in time view as at 02/03/2009.

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

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 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

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

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.

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;

Status: Point in time view as at 02/03/2009.

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

- 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.

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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

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 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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

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.

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.

Status: Point in time view as at 02/03/2009.

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

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.

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)

...

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)

...

Status: Point in time view as at 02/03/2009.

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

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.

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: Point in time view as at 02/03/2009.

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

TITLE V

FINANCIAL PROVISIONS

Article 93

Refund of sickness and maternity insurance benefits other than those provided for in Articles 94 and 95 of the implementing Regulation

^{F11} The actual amount of benefits in kind provided pursuant to Article 19(1) and (2) of the Regulation to employed and self-employed persons and to members of their families residing in the territory of the same Member State, and benefits in kind provided pursuant to Articles 21(2), 22, 22a, ^{F12}22b,] 25(1), (3) and (4), 26, 31 ^{F13}or 34a] of the Regulation, shall be refunded by the competent institution to the institution which provided the said benefits as shown in the accounts of that institution.]

2 In the cases referred to in the second subparagraph of Article 21 (2), the second subparagraph of Article 22 (3) and in Article^{F14s}] ^{F14} 29 (1) and] 31 of the Regulation, and for the purposes of implementing paragraph 1, the institution of the place of residence of the members of the family or of the pensioner, as the case may be, shall be considered as the competent institution.

3 If the actual amount of the benefits referred to in paragraph 1 is not shown in the accounts of the institution which has provided them, and no agreement has been concluded under paragraph 6, the amount to be refunded shall be determined on the basis of a lump-sum payment calculated from all the appropriate references obtained from the data available. The Administrative Commission shall assess the bases to be used for the calculation of the lump-sum payments and shall decide the amount thereof.

4 For the purposes of the refund, rates higher than those applicable to the benefits in kind provided to employed or self-employed persons who are subject to the legislation administered by the institution which provided the benefits referred to in paragraph 1 may not be taken into account.

5 The provision of paragraphs 1 and 2 shall apply by analogy to the refund of cash benefits paid in accordance with the provisions of the second sentence of Article 18 (8) of the implementing Regulation.

6 Two or more Member States or the competent authorities of those Member States may, having received the opinion of the Administrative Commission, agree to other methods of assessing the amounts to be refunded, in particular on the basis of lump sums.

Textual Amendments

- F11** 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).
- F12** 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).

Status: Point in time view as at 02/03/2009.

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

- F13** 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).
- F14** Deleted 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.

Article 94

Refund of benefits in kind provided under sickness and maternity insurance to the members of the family of an employed or self-employed person not residing in the same Member State as the latter

1 The amount of benefits in kind provided under Article 19 (2) of the Regulation to the members of the family of an employed or self-employed person who are not residing in the territory of the same Member State as the person concerned shall be refunded by the competent institutions to the institutions which provided the said benefits on the basis of a lump sum in respect of each calendar year which is as close as possible to the actual expenditure incurred.

2 The lump-sum payment shall be determined by multiplying the average annual cost per family by the average annual number of families to be taken into account and by reducing the resultant amount by 20 %.

3 The factors necessary for the calculation of the said lump sum shall be determined as follows:

- a the average annual cost per family shall be obtained, for each Member State, by dividing the annual expenditure on all the benefits in kind provided by the institutions of that Member State to all the members of the families of employed or self-employed persons who are subject to the legislation of the said Member State, under the social security schemes to be taken into consideration, by the average annual number of such employed or self-employed persons with members of the family; the social security schemes to be taken into consideration for that purpose are specified in Annex 9 to the implementing Regulation;
- b in dealings between the institutions of two Member States, the average annual number of families to be taken into account shall be equal to the average annual number of employed or self-employed persons who are subject to the legislation of one of those Member States and the members of whose families are entitled to benefits in kind to be provided by an institution of the other Member States.

4 The number of families to be taken into account in accordance with the provisions of paragraph 3 (b) shall be determined by means of a listkept for that purpose by the institution of the place of residence, based upon documentary evidence by the competent institution of the rights of the persons concerned. In the event of any dispute, the observations of the institutions involved shall be submitted to the Audit Board provided for in Article 101 (3) of the implementing Regulation.

5 The Administrative Commission shall lay down the methods and procedures for determining the calculation factors referred to in paragraphs 3 and 4.

Status: Point in time view as at 02/03/2009.

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

6 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 methods of assessing the amounts to be refunded.

Article 95⁽¹⁾

Refund on benefits in kind provided under sickness and maternity insurance to pensioners and to members of their families who do not reside in a Member State under whose legislation they receive a pension and are entitled to benefits

1 The amount of the benefits in kind provided under Articles 28 (1) and 28a of the Regulation shall be refunded by the competent institutions to the institutions which provided the said benefits, on the basis of a lump sum which is as close as possible to the actual expenditure incurred.

2 The lump-sum payment shall be determined by multiplying the average annual cost per pensioner by the average annual number of pensioners to be taken into account, and by reducing the resultant amount by 20 %.

3 The factors necessary for the calculation of the said lump sum shall be determined according to the following rules:

- a the average annual cost per pensioner shall be obtained, for each Member State, by dividing the annual expenditure on all the benefits in kind provided by the institutions of that Member State to all pensioners whose pensions are payable under the legislation of that Member State, under the social security schemes to be taken into consideration, and to members of their families, by the average annual number of pensioners; the social security schemes to be taken into consideration for that purpose are specified in Annex 9;
- b in dealings between the institutions of two Member States, the average annual number of pensioners to be taken into account shall be equal to the average annual number of pensioners referred to in Article 28 (2) of the Regulation who, whilst residing in the territory of one of the Member States, are entitled to benefits in kind chargeable to the institution of the other Member State.

4 The number of pensioners to be taken into account in accordance with the provisions of paragraph 3 (b) shall be determined by means of a list kept for that purpose by the institution of the place of residence, based upon documentary evidence supplied by the competent institution of the rights of the persons concerned. In the event of any dispute, the observations of the institutions involved shall be submitted to the Audit Board provided for in Article 101 (3) of the implementing Regulation.

5 The Administrative Commission shall lay down the methods and procedures for determining the calculation factors referred to in paragraphs 3 and 4.

6 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 methods of assessing the amounts to be refunded.

Implementation of Article 63 (2) of the Regulation

Article 96

Refund of benefits in kind provided under insurance schemes for accidents at work and occupational diseases by the institution of one Member State on behalf of the institution of another Member State

For the purposes of implementing the provisions of Article 63 (2) of the Regulation, the provisions of Article 93 of the implementing Regulation shall apply by analogy.

Implementation of Article 70 (2) of the Regulation

Article 97

Refund of unemployment benefits paid to unemployed persons going to another State to seek employment there

1 The amount of benefits paid under Article 69 of the Regulation shall be refunded by the competent institution to the institution which has paid the said benefits, as shown in the accounts of the latter institution.

- 2 Two or more Member States or the competent authorities of those States may:
- having received the opinion of the Administrative Commission, agree on other methods of determining the amounts to be refunded, in particular lump sums, or other methods of payment,
 - or
 - waive all refunds between institutions.

Article 98 (8)

...

Common provisions on refunds

Article 99

Administration costs

Two or more Member States or the competent authorities of those Member States may, in accordance with the provisions of the third sentence of Article 84 (2) of the Regulation, agree to increase the amount of the benefits referred to in Articles 93 to 98 of the implementing Regulation by a specific percentage in order to take into account administration costs. That percentage may vary in accordance with the benefits concerned.

Status: Point in time view as at 02/03/2009.

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

Article 100

Late claims

1 In the settlement of accounts between institutions of the Member States, claims for refunds relating to benefits provided during a calendar year three years or more previous to the date of submission of such claims, whether they are submitted to a liaison body or to the institution responsible for payment of the competent State, may be disregarded by the institution responsible for payment.

2 For claims relating to lump-sum refunds, the three-year period shall run from the date of publication in the *Official Journal of the European Communities* of the average annual cost of benefits in kind determined in accordance with Articles 94 and 95 of the implementing Regulation.

Article 101 (8)

Statement of claims

1 Pursuant to Articles 36, 63 and 70 of the Regulation, the Administrative Commission shall draw up a statement of claims in respect of each calendar year.

2 The Administrative Commission may arrange for any checks appropriate to the investigation of the statistical and accounting data needed in the drawing up of the statement of claims provided for in paragraph 1, in particular to ensure their compliance with the rules laid down under this Title.

3 The Administrative Commission shall take the decision referred to in this Article on the report of the Audit Board which shall furnish it with an opinion, stating the reasons on which such opinion is based. The Administrative Commission shall determine the methods of operation and the composition of the Audit Board.

Article 102 (8)

Functions of the Audit Board — Refund procedure

- 1 The Audit Board shall:
- a collect the necessary data and arrange for the calculations required for the implementation of the present Title;
 - b give the Administrative Commission periodic accounts of the results of the implementation of the Regulations, in particular as regards the financial aspect;
 - c make any useful suggestions it may have to the Administrative Commission in connection with the provisions of subparagraphs (a) and (b);
 - d submit to the Administrative Commission proposals on the observations forwarded to it in accordance with Articles 94 (4) and 95 (4) of the implementing Regulation;
 - e lay before the Administrative Commission proposals relating to the implementation of Article 101 of the implementing Regulation;
 - f carry out all work, studies or assignments on matters referred to it by the Administrative Commission.

Status: Point in time view as at 02/03/2009.

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

2 The reimbursements provided for in Articles 36, 63 and 70 of the Regulation shall be made for all the competent institutions of a Member State to the creditor institutions of another Member State through the agency of the bodies designated by the competent authorities of the Member States. The bodies through which reimbursements have been made shall advise the Administrative Commission of the amounts reimbursed within the time limits and according to the procedures laid down by the said Commission.

3 When the refunds are determined on the basis of the actual amount of benefits provided, as shown in the accounts of the institutions, they shall be made, for each calendar half-year, during the following calendar half-year.

4 When the refunds are determined on a lump-sum basis, they shall be made for each calendar year; in such case, the competent institutions shall pay advances to the creditor institutions on the first day of each calendar half-year, in accordance with the procedure laid down by the Administrative Commission.

5 The competent authorities of two or more Member states may agree on other time limits for refunds or other procedures for the payment of advances.

Article 103

Compilation of statistical and accounting data

The competent authorities of the Member States shall take all the necessary measures for the implementation of the present Title, in particular those necessitating the compilation of statistical or accounting data.

Article 104 (8)

Entry in Annex 5 of agreements on refunds between Member States or the competent authorities of the Member States

1 Provisions which are similar to those of Articles 36 (3), 63 (3), and 70 (3) of the Regulation, and of Articles 93 (6), 94 (6), and 95 (6) of the implementing Regulation and which are in force on the day preceding the entry into force of the Regulation, shall continue to apply provided they are included in Annex 5 to the implementing Regulation.

2 Provisions which are similar to those referred to in paragraph 1 and which, for the purposes of dealings between two or more Member States, will apply following the entry into force of the Regulation shall be entered in Annex 5 to the implementing Regulation. The same shall apply to provisions agreed under Article 97 (2) of the implementing Regulation.

Costs of administrative checks and medical examinations

Article 105

1 The costs entailed in administrative checks and in medical examinations, observations, doctor's visits and checks of all kinds necessary for the award, provision or review of benefits, shall be refunded by the institution on whose behalf they were made to the institution which has been responsible therefore, on the basis of the charges applied by the latter institution.

2 However, two or more Member States or the competent authorities of such Member States may agree on other methods of refund, in particular on a lump-sum basis, or they may waive all refunds between institutions.

Status: Point in time view as at 02/03/2009.

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

Such agreements shall be entered in Annex 5 to the implementing Regulation. Agreements in force on the day preceding the entry into force of the Regulation shall continue to apply provided that they are included in the said Annex.

Common provisions for the payment of cash benefits

Article 106

The competent authorities of every Member State shall notify the Administrative Commission, within the time limits allowed and in accordance with the procedures laid down by that Commission, of the amount of cash benefits paid by the institutions falling within their jurisdiction to recipients residing or staying in the territory of any other Member State.

Article 107 (9) (11) (12) (14)

Currency conversion

[^{F11}1 For the purposes of the following provisions:

- a Regulation: Article 12(2), (3) and (4), Article 14d(1), Article 19(1)(b), last sentence, Article 22(1)(ii), last sentence, Article 25(1)(b), penultimate sentence, Article 41(1)(c) and (d), Article 46(4), Article 46a(3), Article 50, Article 52(b), last sentence, Article 55(1)(ii), last sentence, Article 70(1), first subparagraph, Article 71(1)(a)(ii) and (b)(ii), penultimate sentence;
- b implementing Regulation: Article 34(1), (4) and (5),

the rate for the conversion into a currency of amounts denominated in another currency shall be the rate calculated by the Commission and based on the monthly average, during the reference period specified in paragraph 2, of reference rates of exchange of currencies published by the European Central Bank.]

2 The reference period shall be:

- January for rates of conversion applicable from 1 April following,
- April for rates of conversion applicable from 1 July following,
- July for rates of conversion applicable from 1 October following,
- October for rates of conversion applicable from 1 January following.

^{F15}3

4 The date to be taken into account for determining the rates of conversion to be applied in the cases referred to in paragraph 1 shall be fixed by the Administrative Commission on a proposal from the Audit Board.

5 The rates of conversion to be applied in the cases referred to in paragraph 1 shall be published in the Official Journal of the European Communities in the course of the last month but one preceding the month from the first day of which they are to apply.

6 In cases not covered by paragraph 1, the conversion shall be made at the official rate of exchange on the day of payment both for the payment and refund of benefits.

Textual Amendments

F11 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

Status: Point in time view as at 02/03/2009.

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

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).

- F15** Deleted 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).

TITLE VI

MISCELLANEOUS PROVISIONS

Article 108

Proof of status of seasonal worker

In order to prove that he is a seasonal worker, the employed person covered by Article 1 (c) of the Regulation shall be required to submit his contract of employment stamped by the employment services of the Member State in whose territory he has gone to work or has worked. If no seasonal employment contract is concluded in that Member State, the institution of the country of employment shall, where appropriate, issue, in the case of a claim for benefits, a certificate attesting that, on the basis of information supplied by the person concerned, the work which he is doing or has done is of a seasonal nature.

Article 109

Arrangement for payment of contributions

The employer who has no place of business in the Member State in whose territory the employed person is employed may agree with the latter that he shall assume the obligations of the employer with regard to the payment of contributions.

The employer shall notify the competent institution or, where necessary, the institution designated by the competent authority of the said Member State of any such arrangement.

Article 110

Mutual administrative aid relating to the recovery of benefits which were not due

If the institution of a Member State which provided benefits intends to take action against a person who has received benefits which were not due to him, the institution of the place of residence of such person, or the institution designated by the competent authority of the Member State in whose territory that person resides, shall lend its good offices to the first institution.

Status: Point in time view as at 02/03/2009.

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

Article III

Recovery by social security institutions of payments not due, and claims by assistance bodies

1 If, when awarding or reviewing benefits in respect of invalidity, old-age or death (pensions) pursuant to Chapter 3 of Title III of the Regulation, the institution of a Member State has paid to a recipient of benefits a sum in excess of that to which he is entitled, that institution may request the institution of any other Member State responsible for the payment of corresponding benefits to that recipient to deduct the amount overpaid from the arrears which it pays to the said recipient. The latter institution shall transfer the amount deducted to the creditor institution. Where the amount overpaid cannot be deducted from the arrears, the provisions of paragraph 2 shall apply.

2 When the institution of a Member State has paid to a recipient of benefits a sum in excess of that to which he is entitled that institution may, within the conditions and limits laid down by the legislation which it administers, request the institution of any other Member State responsible for the payment of benefits to that recipient to deduct the amount overpaid from the amounts which it pays to the said recipient. The latter institution shall make the deduction under the conditions and within the limits provided for such setting-off by the legislation which it administers, as if the sums had been overpaid by itself, and shall transfer the amount deducted to the creditor institution.

3 When a person to whom the Regulation applies has received assistance in the territory of a Member State during a period in which he was entitled to benefits under the legislation of another Member State, the body which gave the assistance may, if it is legally entitled to reclaim the benefits due to the said person, request the institution of any other Member State responsible for the payment of benefits in favour of that person to deduct the amount of the assistance paid from the amounts which the latter pays to the said person.

When a member of the family of a person to whom the Regulation applies has received assistance in the territory of a Member State during a period in which the said person was entitled to benefits under the legislation of another Member State in respect of the member of the family concerned, the body which gave the assistance may, if it is legally entitled to reclaim the benefits due to the said person in respect of the member of the family concerned, request the institution of any other Member State responsible for the payment of such benefits in favour of that person to deduct the amount of assistance paid from the amounts which the latter pays to the said person in respect of the member of the family concerned.

The institution responsible for payment shall make the deduction under the conditions and within the limits provided for such setting-off by the legislation which it administers, and shall transfer the amount deducted to the creditor body.

Article 112

When an institution has made payments which are not due, either directly or through another institution, and when their recovery has become impossible, the amounts in question shall remain finally chargeable to the first institution, save where the payment which was not due is the result of fraud.

Status: Point in time view as at 02/03/2009.

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

Article 113

Recovery of benefits in kind provided but not due to persons employed in international transport

1 If the right to benefits in kind is not recognized by the competent institution, the benefits in kind which have been provided to a person employed in international transport by the institution of the place of stay by virtue of the presumption referred to in Article 20 (1) or 62 (1) of the implementing Regulation, shall be refunded by the competent institution.

2 Expenses incurred by the institution of the place of stay in respect of any person employed in international transport who has not previously applied to the institution of the place of stay and is not entitled to benefits in kind but has nevertheless received benefits in kind upon presentation of the certified statement referred to in Article 20 (1) or 62 (1) of the implementing Regulation, shall be refunded by the institution shown as competent in the said certified statement or by any other institution designated for that purpose by the competent authority of the Member State concerned.

3 The competent institution or, in the case referred to in paragraph 2, the institution shown as competent or the institution designated for that purpose shall debit the recipient of benefits with the value of the benefits in kind which were provided but were not due to him. The said institution shall notify these debits to the Audit Board referred to in Article 101 (3) of the implementing Regulation which shall draw up a statement thereof.

Article 114

Provisional payments of benefits in cases of dispute over the legislation to be applied or the institution which should provide benefits

In the case of a dispute between the institutions or competent authorities of two or more Member States, either as to which legislation should apply under Title II of the Regulation, or as to which institution should provide the benefits, the person concerned who could claim benefits if there were no dispute shall provisionally receive the benefits provided for by the legislation administered by the institution of the place of residence or, if the person concerned does not reside in the territory of one of the Member States concerned, the benefits provided for by the legislation administered by the institution to which his claim was submitted in the first instance.

Article 115

Procedures for medical examinations carried out in a Member State other than the competent State

The institution of the place of stay or residence which is required under Article 87 of the Regulation to carry out a medical examination, shall act in accordance with the procedures laid down by the legislation which it administers.

In the absence of such procedures, it shall apply to the competent institution for information on the procedures to be applied.

Status: Point in time view as at 02/03/2009.

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

Article 116

Agreements relating to the recovery of contributions

1 Agreements concluded pursuant to Article 92 (2) of the Regulation shall be entered in Annex 5 to the implementing Regulation.

2 Agreements concluded for the implementation of Article 51 of the Regulation shall continue to apply provided they are included in Annex 5 to the implementing Regulation.

[^{F16}TITLE VIa

PROVISIONS GOVERNING ELECTRONIC DATA PROCESSING]

[^{F17}Article 117

Data processing

[^{F11} Based on the research and proposals of the Technical Commission referred to in Article 117c of the implementing Regulation, the Administrative Commission shall adapt to new data processing techniques the models of documents as well as the routing channels and the data transmission procedures necessary for applying the Regulation and the implementing Regulation.]

2 The Administrative Commission shall take the measures necessary to ensure the general application of these adapted models, routing channels and procedures, taking account of the development of the new data processing techniques in each Member State.]

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).

F17 Substituted by Council Regulation (EC) No 1290/97 of 27 June 1997 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.

[^{F16}Article 117a

Telematic services

1 The Member States shall gradually further the use of telematic services for the exchange between institutions of the data required for the application of the Regulation and the implementing Regulation.

Status: Point in time view as at 02/03/2009.

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

The European Commission shall lend its support to activities of common interest as soon as the Member States have established the telematic services.

2 The Administrative Commission shall, on the basis of proposals from the Technical Commission referred to in Article 117c of the implementing Regulation, adopt the common architecture rules for the telematic services, in particular on security and the use of standards.

Article 117b

Operation of the telematic services

1 Each Member State shall be responsible for managing its own part of the telematic services in accordance with the Community provisions on the protection of individuals with regard to the processing of personal data.

2 The Administrative Commission shall lay down provisions for the operation of the common part of the telematic services.

Article 117c

Technical Commission on data processing

1 The Administrative Commission shall set up a Technical Commission, which shall deliver reports and a reasoned opinion before decisions are taken pursuant to Articles 117, 117a and 117b. The methods of operation and the composition of the Technical Commission shall be determined by the Administrative Commission.

2 The Technical Commission shall:

- a gather together the relevant technical documents and undertake the studies and work required for the purposes of the present Title;
- b submit to the Administrative Commission the reports and reasoned opinions referred to in paragraph 1;
- c carry out all other tasks and studies on matters referred to it by the Administrative Commission.]

Textual Amendments

F16 Inserted by [Council Regulation \(EC\) No 1290/97 of 27 June 1997 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.](#)

Status: Point in time view as at 02/03/2009.

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

TITLE VII

TRANSITIONAL AND FINAL PROVISIONS

Article 118 (6) (12)

Transitional provisions relating to pensions for employed persons

1 Where the contingency arises before 1 October 1972 or before the date of implementation of the implementing Regulation in the territory of the Member State concerned and the claim for pension has not been awarded before that date, such claim shall give rise to a double award, in as much as benefits must be granted, pursuant to such contingency, for a period prior to that date:

- a for the period prior to 1 October 1972 or to the date of implementation of the implementing Regulation in the territory of the Member State concerned, in accordance with the Regulation or agreements in force between the Member States concerned.
- b for the period commencing on 1 October 1972 or on the date of implementation of the implementing Regulation in the territory of the Member State concerned, in accordance with the Regulation.

However, if the amount calculated pursuant to the provisions referred to under (a) is greater than that calculated pursuant to the provisions referred to under (b), the person concerned shall continue to be entitled to the amount calculated pursuant to the provisions referred to under (a).

2 A claim for invalidity, old age or survivors' benefits submitted to an institution of a Member State from 1 October 1972 or from the date of implementation of the implementing Regulation in the territory of the Member State concerned, or in a part of the territory of that State, shall automatically necessitate the reassessment of the benefits which have been awarded for the same contingency prior to that date by the institution or institutions of one or more of the other Member States, in accordance with the Regulation; such reassessment may not give rise to any reduction in the amount of the benefit awarded.

Article 119 (6) (12)

Transitional provisions relating to pensions for self-employed persons

1 Where the contingency arises before 1 July 1982 or before the date of implementation of the implementing Regulation in the territory of the Member State concerned and the claim for pension has not been awarded before that date, such claim shall give rise to a double award, in as much as benefits must be granted, pursuant to such contingency, for a period prior to that date:

- a for the period prior to 1 July 1982 or to the date of implementation of the implementing Regulation in the territory of the Member State concerned, in accordance with the Regulation or agreements in force between the Member States concerned before that date;
- b for the period commencing on 1 July 1982 or on the date of implementation of the implementing Regulation in the territory of the Member State concerned, in accordance with the Regulation.

However, if the amount calculated pursuant to the provisions referred to under (a) is greater than that calculated pursuant to the provisions referred to under (b), the

Status: Point in time view as at 02/03/2009.

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

person concerned shall continue to be entitled to the amount calculated pursuant to the provisions referred to under (a).

2 A claim for invalidity, old age or survivors' benefits submitted to the institution of a Member State from 1 July 1982 or from the date of implementation of the implementing Regulation in the territory of the Member State concerned, or in a part of the territory of that State, shall automatically necessitate the reassessment of the benefits that have already been awarded for the same contingency prior to that date by the institution or institutions of one or more of the other Member States, in accordance with the Regulation; such reassessment may not give rise to any reduction in the amount of benefit awarded.

Article 119a (5)

Transitional provisions relating to pensions for the purpose of applying the last part of Article 15 (1) (a) of the implementing Regulation

1 Where the date on which the contingency arises precedes 1 January 1987 and where the claim for a pension has not yet resulted in an award before that date, such claim shall, in as much as benefits must be granted, pursuant to such contingency, for a period prior to the last-mentioned date, give rise to a double award:

- a for the period prior to 1 January 1987, in accordance with the provisions of the Regulation or of agreements in force between the Member States concerned;
- b for the period commencing on 1 January 1987, in accordance with the provisions of the Regulation.

If, however, the amount calculated in pursuance of the provisions referred to under (a) is greater than that calculated in pursuance of the provisions referred to under (b), the person concerned shall continue to be entitled to the amount calculated in pursuance of the provisions referred to under (a).

2 A claim for invalidity, old-age or survivors' benefits submitted to an institution of a Member State from 1 January 1987 shall automatically necessitate the reassessment, in accordance with the provisions of the Regulation, of the benefits which have been awarded for the same contingency prior to that date by the institution or institutions of one or more of the other Member States, without prejudice to the provisions of Article 3.

3 The rights of the persons concerned who obtained the award of pensions prior to 1 January 1987 in the territory of the Member State in question may be revised at their request in the light of the provisions of Council Regulation (EEC) No 3811/86⁽²⁾.

4 If the request referred to in paragraph 3 is submitted within one year following 1 January 1987, entitlement to rights under Regulation (EEC) No 3811/86 shall be acquired from 1 January 1987 or from the date of the entitlement to a pension where the last-mentioned date is subsequent to 1 January 1987; in such case the provisions of the legislation of any Member State with regard to the withdrawal or limitation of rights may not be relied upon as against the persons concerned.

5 If the request referred to in paragraph 3 is submitted after expiry of the period of one year following 1 January 1987, entitlement to rights acquired under Regulation (EEC) No 3811/86 which have not been withdrawn or in respect of which the period of limitation has not been exceeded shall be acquired from the date on which the request is submitted, unless more favourable provisions of the legislation of any of the Member States are applicable.

Status: Point in time view as at 02/03/2009.

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

[^{F18} Article 120

Persons who study or receive vocational training

The provisions of this Regulation, with the exception of Articles 10 and 10a, shall apply, where appropriate, by analogy to students.]

Textual Amendments

F18 Substituted by [Council Regulation \(EC\) No 307/1999 of 8 February 1999 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 students.](#)

Article 121

Supplementary implementing agreements

1 Two or more Member States or the competent authorities of those Member States may, where necessary, conclude agreements designed to supplement the administrative procedure for implementing the Regulation. Such agreements are listed in Annex 5 to the implementing Regulation.

2 Agreements similar to those referred to in paragraph 1, which are in force on the day preceding 1 October 1972, shall continue to apply provided they are included in Annex 5 to the implementing Regulation.

[^{F19} Article 122

Special provisions concerning the amendment of the Annexes

The Annexes to the implementing Regulation may be amended by a Commission Regulation at the request of the Member State or Member States concerned or their competent authorities, and after the unanimous opinion of the Administrative Commission has been obtained.]

Textual Amendments

F19 Substituted by [Council Regulation \(EC\) No 1399/1999 of 29 April 1999 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.](#)

Status: Point in time view as at 02/03/2009.

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

- (1) This Article shall continue to apply until 1 January 1998. However, in relations with the French Republic, it shall continue to apply until 1 January 2002. See Appendix.
- (2) [OJ No L 355, 16. 12. 1986, p. 5.](#)

Status:

Point in time view as at 02/03/2009.

Changes to legislation:

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