

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to their families moving within the Community (Consolidated version — OJ No L 28 of 30. 1. 1997, p. 1See annex B. ) (repealed)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

[<sup>F1</sup>1 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, [<sup>F2</sup>22b,] 25(1), (3) and (4), 26, 31 [<sup>F3</sup>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 [<sup>F4</sup>s]] [<sup>F4</sup> 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.

*Status: Point in time view as at 28/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 574/72 (repealed), TITLE V. (See end of Document for details)*

### Textual Amendments

- F1** 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).
- F2** 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).
- F3** 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).
- F4** 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

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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 list kept 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.

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<sup>(1)</sup>*

#### **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.

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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)*

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#### *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.

#### *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;

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f carry out all work, studies or assignments on matters referred to it by the Administrative Commission.

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.

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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.

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**

[<sup>F11</sup> 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.

<sup>F53</sup> .....

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.

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- F5** 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).



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- (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.

**Status:**

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**Changes to legislation:**

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