

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland)

[^{XI}TITLE II

DETERMINATION OF THE LEGISLATION APPLICABLE

Article 11

General rules

1 Persons to whom this Regulation applies shall be subject to the legislation of a single Member State only. Such legislation shall be determined in accordance with this Title.

2 For the purposes of this Title, persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person shall be considered to be pursuing the said activity. This shall not apply to invalidity, old-age or survivors' pensions or to pensions in respect of accidents at work or occupational diseases or to sickness benefits in cash covering treatment for an unlimited period.

3 Subject to Articles 12 to 16:

- a a person pursuing an activity as an employed or self-employed person in a Member State shall be subject to the legislation of that Member State;
- b a civil servant shall be subject to the legislation of the Member State to which the administration employing him/her is subject;
- c a person receiving unemployment benefits in accordance with Article 65 under the legislation of the Member State of residence shall be subject to the legislation of that Member State;
- d a person called up or recalled for service in the armed forces or for civilian service in a Member State shall be subject to the legislation of that Member State;
- e any other person to whom subparagraphs (a) to (d) do not apply shall be subject to the legislation of the Member State of residence, without prejudice to other provisions of this Regulation guaranteeing him/her benefits under the legislation of one or more other Member States.

4 For the purposes of this Title, an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of a Member State shall be deemed to be an activity pursued in the said Member State. However, a person employed on board a vessel flying the flag of a Member State and remunerated for such activity by an undertaking or a person whose registered office or place of business is in another Member State shall be subject to the legislation of the latter Member State if he/she resides in that State. The undertaking or person paying the remuneration shall be considered as the employer for the purposes of the said legislation.

[^{F15} An activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be an activity pursued in the Member State where the home base, as defined in Annex III to Regulation (EEC) No 3922/91, is located.]

Status: Point in time view as at 28/06/2012.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 883/2004 of the European Parliament and of the Council, TITLE II. (See end of Document for details)

Textual Amendments

- F1** Inserted by Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (Text of relevance to the EEA and to the EU/Switzerland Agreement).

Article 12

Special rules

[^{F21} A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that he/she is not sent to replace another posted person.]

2 A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed 24 months.

Textual Amendments

- F2** Substituted by Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (Text of relevance to the EEA and to the EU/Switzerland Agreement).

Article 13

Pursuit of activities in two or more Member States

[^{F21} A person who normally pursues an activity as an employed person in two or more Member States shall be subject:

- a to the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State; or
- b if he/she does not pursue a substantial part of his/her activity in the Member State of residence:
 - (i) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated if he/she is employed by one undertaking or employer; or
 - (ii) to the legislation of the Member State in which the registered office or place of business of the undertakings or employers is situated if he/she is employed by two or more undertakings or employers which have their registered office or place of business in only one Member State; or
 - (iii) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated other than the Member

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State of residence if he/she is employed by two or more undertakings or employers, which have their registered office or place of business in two Member States, one of which is the Member State of residence; or

- (iv) to the legislation of the Member State of residence if he/she is employed by two or more undertakings or employers, at least two of which have their registered office or place of business in different Member States other than the Member State of residence.]

2 A person who normally pursues an activity as a self-employed person in two or more Member States shall be subject to:

- a the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State;
- or
- b the legislation of the Member State in which the centre of interest of his/her activities is situated, if he/she does not reside in one of the Member States in which he/she pursues a substantial part of his/her activity.

3 A person who normally pursues an activity as an employed person and an activity as a self-employed person in different Member States shall be subject to the legislation of the Member State in which he/she pursues an activity as an employed person or, if he/she pursues such an activity in two or more Member States, to the legislation determined in accordance with paragraph 1.

4 A person who is employed as a civil servant by one Member State and who pursues an activity as an employed person and/or as a self-employed person in one or more other Member States shall be subject to the legislation of the Member State to which the administration employing him/her is subject.

5 Persons referred to in paragraphs 1 to 4 shall be treated, for the purposes of the legislation determined in accordance with these provisions, as though they were pursuing all their activities as employed or self-employed persons and were receiving all their income in the Member State concerned.

Textual Amendments

- F2** Substituted by [Regulation \(EU\) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation \(EC\) No 883/2004 on the coordination of social security systems and Regulation \(EC\) No 987/2009 laying down the procedure for implementing Regulation \(EC\) No 883/2004 \(Text of relevance to the EEA and to the EU/Switzerland Agreement\).](#)

Article 14

Voluntary insurance or optional continued insurance

1 Articles 11 to 13 shall not apply to voluntary insurance or to optional continued insurance unless, in respect of one of the branches referred to in Article 3(1), only a voluntary scheme of insurance exists in a Member State.

2 Where, by virtue of the legislation of a Member State, the person concerned is subject to compulsory insurance in that Member State, he/she may not be subject to a voluntary insurance scheme or an optional continued insurance scheme in another Member State. In all

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other cases in which, for a given branch, there is a choice between several voluntary insurance schemes or optional continued insurance schemes, the person concerned shall join only the scheme of his/her choice.

3 However, in respect of invalidity, old age and survivors' benefits, the person concerned may join the voluntary or optional continued insurance scheme of a Member State, even if he/she is compulsorily subject to the legislation of another Member State, provided that he/she has been subject, at some stage in his/her career, to the legislation of the first Member State because or as a consequence of an activity as an employed or self-employed person and if such overlapping is explicitly or implicitly allowed under the legislation of the first Member State.

[^{F3}4 Where the legislation of a Member State makes admission to voluntary insurance or optional continued insurance conditional upon residence in that Member State or upon previous activity as an employed or self-employed person, Article 5(b) shall apply only to persons who have been subject, at some earlier stage, to the legislation of that Member State on the basis of an activity as an employed or self-employed person.]

Textual Amendments

F3 Substituted by [Regulation \(EC\) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation \(EC\) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes \(Text with relevance for the EEA and for Switzerland\)](#).

Article 15

[^{F3}Contract staff] of the European Communities

[^{F3}Contract staff] of the European Communities may opt to be subject to the legislation of the Member State in which they are employed, to the legislation of the Member State to which they were last subject or to the legislation of the Member State whose nationals they are, in respect of provisions other than those relating to family allowances, provided under the scheme applicable to such staff. This right of option, which may be exercised once only, shall take effect from the date of entry into employment.

Textual Amendments

F3 Substituted by [Regulation \(EC\) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation \(EC\) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes \(Text with relevance for the EEA and for Switzerland\)](#).

Article 16

Exceptions to Articles 11 to 15

1 Two or more Member States, the competent authorities of these Member States or the bodies designated by these authorities may by common agreement provide for exceptions to Articles 11 to 15 in the interest of certain persons or categories of persons.

2 A person who receives a pension or pensions under the legislation of one or more Member States and who resides in another Member State may at his/her request be exempted from application of the legislation of the latter State provided that he/she is not subject to that legislation on account of pursuing an activity as an employed or self-employed person.]

Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EC\) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems \(Official Journal of the European Union L 166 of 30 April 2004\)](#).

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