

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)

TITLE III

**SPECIAL PROVISIONS CONCERNING THE
VARIOUS CATEGORIES OF BENEFITS**

CHAPTER 2

Benefits in respect of accidents at work and occupational diseases

Article 36

Right to benefits in kind and in cash

1 Without prejudice to any more favourable provisions in paragraph 2 of this Article, Articles 17, 18(1), 19(1) and 20(1) shall also apply to benefits relating to accidents at work or occupational diseases.

2 A person who has sustained an accident at work or has contracted an occupational disease and who resides or stays in a Member State other than the competent Member State shall be entitled to the special benefits in kind of the scheme covering accidents at work and occupational diseases provided, on behalf of the competent institution, by the institution of the place of residence or stay in accordance with the legislation which it applies, as though he were insured under the said legislation.

3 Article 21 shall also apply to benefits falling within this Chapter.

Article 37

Costs of transport

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

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

Article 38

Benefits for an occupational disease where the person suffering from such a disease has been exposed to the same risk in several Member States

When a person who has contracted an occupational disease has, under the legislation of two or more Member States, pursued an activity which by its nature is likely to cause the said disease, the benefits that he or his survivors may claim shall be provided exclusively under the legislation of the last of those States whose conditions are satisfied.

Article 39

Aggravation of an occupational disease

In the event of aggravation of an occupational disease for which a person suffering from such a disease has received or is receiving benefits under the legislation of a Member State, the following rules shall apply:

- (a) if the person concerned, while in receipt of benefits, has not pursued, under the legislation of another Member State, an activity as an employed or self-employed person likely to cause or aggravate the disease in question, the competent institution of the first Member State shall bear the cost of the benefits under the provisions of the legislation which it applies, taking into account the aggravation;
- (b) if the person concerned, while in receipt of benefits, has pursued such an activity under the legislation of another Member State, the competent institution of the first Member State shall bear the cost of the benefits under the legislation it applies without taking the aggravation into account. The competent institution of the second Member State shall grant a supplement to the person concerned, the amount of which shall be equal to the difference between the amount of benefits due after the aggravation and the amount which would have been due prior to the aggravation under the legislation it applies, if the disease in question had occurred under the legislation of that Member State;
- (c) the rules concerning reduction, suspension or withdrawal laid down by the legislation of a Member State shall not be invoked against persons receiving benefits provided by institutions of two Member States in accordance with subparagraph (b).

Article 40

Rules for taking into account the special features of certain legislation

1 If there is no insurance against accidents at work or occupational diseases in the Member State in which the person concerned resides or stays, or if such insurance exists but there is no institution responsible for providing benefits in kind, those benefits shall be provided by the institution of the place of residence or stay responsible for providing benefits in kind in the event of sickness.

2 If there is no insurance against accidents at work or occupational diseases in the competent Member State, the provisions of this Chapter concerning benefits in kind shall nevertheless be applied to a person who is entitled to those benefits in the event of sickness, maternity or equivalent paternity under the legislation of that Member State if that person

sustains an accident at work or suffers from an occupational disease during a residence or stay in another Member State. Costs shall be borne by the institution which is competent for the benefits in kind under the legislation of the competent Member State.

3 Article 5 shall apply to the competent institution in a Member State as regards the equivalence of accidents at work and occupational diseases which either have occurred or have been confirmed subsequently under the legislation of another Member State when assessing the degree of incapacity, the right to benefits or the amount thereof, on condition that:

- a no compensation is due in respect of an accident at work or an occupational disease which had occurred or had been confirmed previously under the legislation it applies; and
- b no compensation is due in respect of an accident at work or an occupational disease which had occurred or had been confirmed subsequently, under the legislation of the other Member State under which the accident at work or the occupational disease had occurred or been confirmed.

Article 41

Reimbursements between institutions

1 Article 35 shall also apply to benefits falling within this Chapter, and reimbursement shall be made on the basis of actual costs.

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