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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2000/83

of 2 June 1983

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 51 and 235 thereof,

Having regard to the proposal of the Commission drawn up after consulting the Administrative Commission on Social Security for Migrant Workers (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the experience gained from implementing Regulation (EEC) No 1408/71 (4), as last amended by Regulation (EEC) No 2793/81 (5), and Regulation (EEC) No 574/72 (6), as last amended by Regulation (EEC) No 799/83 (7), has revealed the need to make some improvements to those Regulations;

Whereas, consequently, where the legislation of a Member State provides that accidents at work or occupational diseases which have occured subsequently shall be taken into account in order to assess the degree of incapacity, to establish a right to benefit or to determine the amount of the benefit, they should also be taken into account when they have occurred under the legislation of another Member State; whereas it is necessary to amend Regulations (EEC) No 1408/71 and (EEC) No 574/72;

Whereas it is necessary to make provision in Annex VI to Regulation (EEC) No 1408/71 enabling German institutions to calculate the net earnings for the determination of certain cash benefits to workers insured in the Federal Republic of Germany and residing in another Member State;

Whereas, in that Annex, provision should further be made that for entitlement to a German invalidity pension only the insurable activities under German legislation should be taken into account;

Whereas changes in the United Kingdom legislation concerning entitlement to maternity benefit have made it necessary to make provision in the said Annex so as to ensure that periods of insurance, employment or residence completed in other Member States are taken into account;

Whereas it is necessary to amend Annex VII to Regulation (EEC) No 1408/71 in order to limit cases of the overlapping of schemes where a person is self-employed in farming in Germany and gainfully employed in another Member State;

Whereas it is necessary to amend Annex 2 to Regulation (EEC) No 574/72 following a redistribution of powers between the various Italian authorities and in order to include the competent institution which administers the pension scheme for miners in the Netherlands;

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(1) OJ No C 27, 2. 2. 1983, p. 3.
(2) OJ No C 96, 11. 4. 1983, p. 89.
(3) OJ No C 90, 5. 4. 1983, p. 29.
(4) OJ No L 149, 5. 7. 1971, p. 2.
(5) OJ No L 275, 29. 9. 1981, p. 1.
(6) OJ No L 74, 27. 3. 1972, p. 1.
(7) OJ No L 89, 7. 4. 1983, p. 15.

Whereas it is necessary to amend Annexes 3 and 10 to Regulation (EEC) No 574/72 following changes in the administration of family allowances in the United Kingdom,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1408/71 is hereby amended as follows:

1. Article 61 is amended as follows:

(a) Paragraph 5 is replaced by the following:

'5. Where the legislation of a Member State provides expressly or by implication that accidents at work or occupational diseases which have occurred or have been confirmed previously shall be taken into consideration in order to assess the degree of incapacity, to establish a right to any benefit, or to determine the amount of benefit, the competent institution of that Member State shall also take into consideration accidents at work or occupational diseases which have occurred or have been confirmed previously under the legislation of another Member State as if they had occurred or had been confirmed under the legislation which it administers.'

(b) The following paragraph is added:

'6. Where the legislation of a Member State provides expressly or by implication that accidents at work or occupational diseases which have occurrred or have been confirmed subsequently shall be taken into consideration in order to assess the degree of incapacity, to establish the right to any benefit, or to determine the amount of such benefit, the competent institution of that Member State shall also take into consideration accidents at work or occupational diseases which have occurred or have been confirmed subsequently under the legislation of another Member State, as if they had occurred or had been confirmed under the legislation which it administers, but only where:

(1) no compensation is due in respect of the accident at work or the occupational disease which had occurred or had been confirmed previously under the legislation which it administers, and

(2) no compensation is due by virtue of the legislation of the other Member State under which the accident at work or the occupational disease occurred or was confirmed subsequently, account having been taken of the provisions of paragraph 5, in respect of that accident at work or that occupational disease.'

2. Annex VI is amended as follows:

(a) In Section C 'Germany', the following points 14 and 15 are added:

'14. For the granting of cash benefits pursuant to Articles 182 (4), 200 (2) and 561 (1) of the German Insurance Code (RVO) to insured persons residing in another Member State, German insurance institutions shall calculate the net earnings to be taken into account for the determination of the benefit rate payable as though they resided in the Federal Republic of Germany.

15. Where under Gérman legislation account must be taken of the occupation hitherto pursued by the person concerned for the purpose of determining his entitlement to a pension in respect of occupational invalidity or incapacity for work, or a miner's pension in respect of a reduction in his capacity to work as a miner, or a miner's pension in respect of occupational invalidity or incapacity for work, that occupation shall be determined by taking account only of insurable activities under German legislation.'

(b) In Section J 'United Kingdom', the following points are added:

'4.1. For the purposes of entitlement to maternity grant, periods of insurance, employment or self-employed activity completed under the legislation of another Member State shall be regarded as periods of presence in Great Britain or, as the case may be, Northern Ireland and, in such a case, the provisions of Article 18 (1) of the Regulation shall apply as if the references therein to periods of residence were references to periods of presence.

Where a woman subject to United Kingdom legislation in accordance with the provisions of Title II of the Regulation does not satisfy the condition imposed by that legislation concerning presence within Great Britain or, as the case may be, Northern Ireland on the date of claim or the date of confinement, she shall be regarded as satisfying such condition if she was on the date in question in another Member State.

4.2. If a woman, whose husband is or has lastly been an employed or a self-employed person subject to United Kingdom legislation in accordance with the provisions of Title II of the Regulation, does not satisfy the conditions imposed by United Kingdom legislation in relation to maternity grant concerning:

(a) presence within Great Britain or, as the case may be, Northern Ireland on the date of claim or the date of confinement, she shall be regarded for the purpose of satisfying such conditions as being so present if she was with her husband on the date in question in another Member State; or, in the event of the death of her husband occurring within six months before the date in question, if she was residing with him in another Member State at the time of his death;

(b) a period of presence within Great Britain or, as the case may be, Northern Ireland, of more than 182 days in the 52 weeks immediately preceding the expected week of confinement or, as the case may be, the date of confinement, periods of insurance, employment or self-employed activity completed by her husband under the legislation of another Member State shall, if she was residing with him throughout those periods, be regarded as periods of presence in Great Britain, or as the case may be, Northern Ireland.'

3. In Annex VII, point 3 is replaced by the following:

'3. For the agricultural accident insurance scheme and the old-age insurance scheme for farmers: where he is self-employed in farming in Germany and gainfully employed in any other Member State.'

Article 2

Regulation (EEC) No 574/72 is hereby amended as follows:

1. In Article 4 (10) (b), 'Article 109' is added in each case after 'Article 102 (2)'.

2. Article 72 shall be replaced by the following:

'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 or an occupational disease diagnosed previously or subsequently

1. In order to assess the degree 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 the 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.'

3. Annex 2 is amended as follows:

(a) In Section G 'Italy', the text of (a) (ii) of paragraph 1 is replaced by the following:

'(ii) for certain categories of civil servants, of persons employed in the private sector and persons treated as such, for pensioners and members of their families:	Ministero della sanità (Ministry of Health), Roma'

(b) In Section I 'Netherlands', paragraph 3 is replaced by the following:

'3. **Old age, death (pensions):**

(a) In general:	Sociale Verzekeringsbank (Social Insurance Bank), Amsterdam
(b) For miners:	Algemeen Mijnwerkersfonds (Miners' General Fund), Heerlen'

4. Section J 'United Kingdom' of Annex 3 is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. **Cash benefits (except family allowances):**

Great Britain:	Department of Heath and Social Security (Overseas Branch), UK-Newcastle upon Tyne NE98 1YX
Northern Ireland:	Department of Health and Social Services (Overseas Branch), UK-Belfast BT4 3HH
Gibraltar:	Department of Labour and Social Security, Gibraltar'

(b) The following paragraph is added:

'3. **Family allowances:**

For the purpose of applying Articles 73 and 74 of the Regulation:

Great Britain:	Department of Health and Social Security, Child Benefit Centre (Washington), UK-Newcastle upon Tyne NE88 1AA
Northern Ireland:	Department of Health and Social Services (Overseas Branch), UK-Belfast BT4 3HH
Gibraltar:	Department of Labour and Social Security, Gibraltar'

5. Annex 10 is amended as follows:

(a) In Section A 'Belgium', the present paragraph 3 becomes paragraph 4. The present paragraph 4 becomes paragraph 3. In new paragraph 3, '(1) (a)' is inserted after 'Article 11 (a)'.

Paragraph 4 is replaced by the following:

'4. For the purposes of applying Article 17 of the Regulation and:

— Article 11 (1) (b) of the implementing Regulation:	Ministère de la prévoyance sociale, Secrétariat général, Service des relations internationales, Bruxelles — Ministerie van Sociale Voorzorg, Secretariaat generaal, Dienst Internationale Betrekkingen, Brussel — (Ministry for Social Welfare, General Secretariat, International Relations Department, Brussels)
— Article 11a (1) (b) of the implementing Regulation:	Ministère de lasses moyennes — Administration des affaires sociales, Bruxelles — Ministerie van Middenstand, Administratie Sociale Zaken, Brussel — (Ministry for Small Firms and Traders — Social Affairs Department, Brussels)'

(b) Section E 'Greece' is amended as follows:

'1. For the purposes of applying Articles 14 (1) and 14 (b) (1) of the Regulation . . .' (remainder unchanged).

(c) In Section I 'Netherlands', in point 1 'Article 11a (1)' is added after 'Article 11 (1)'.

(d) Section J 'United Kingdom' is replaced by the following:

'J. UNITED KINGDOM

1. For the purposes of applying Articles 11 (1), 11a (1), 12a, 13 (2) and (3), 14 (1), (2) and (3), 38 (1), 70 (1), 80 (2), 81, 82 (2), 91 (2), 102 (2) and 110 of the implementing Regulation:

Great Britain:	Department of Health and Social Security (Overseas Branch), UK-Newcastle upon Tyne NE98 1YX
Northern Ireland:	Department of Health and Social Security (Overseas Branch), UK-Belfast BT4 3HH

2. For the purposes of applying Articles 85 (2) and 86 (2) of the implementing Regulation:

Great Britain:	Department of Health and Social Security, Child Benefit Centre (Washington), UK-Newcastle upon Tyne NE88 1AA
Northern Ireland:	Department of Health and Social Security (Overseas Branch), UK-Belfast BT4 3HH'.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 1 July 1982, with the exception of Article 1 (2) (b) which shall apply with effect from 1 April 1982, save in regard to the references to 'self-employed activity' and 'self-employed person'.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 2 June 1983.

For the Council

The President

N. BLÜM