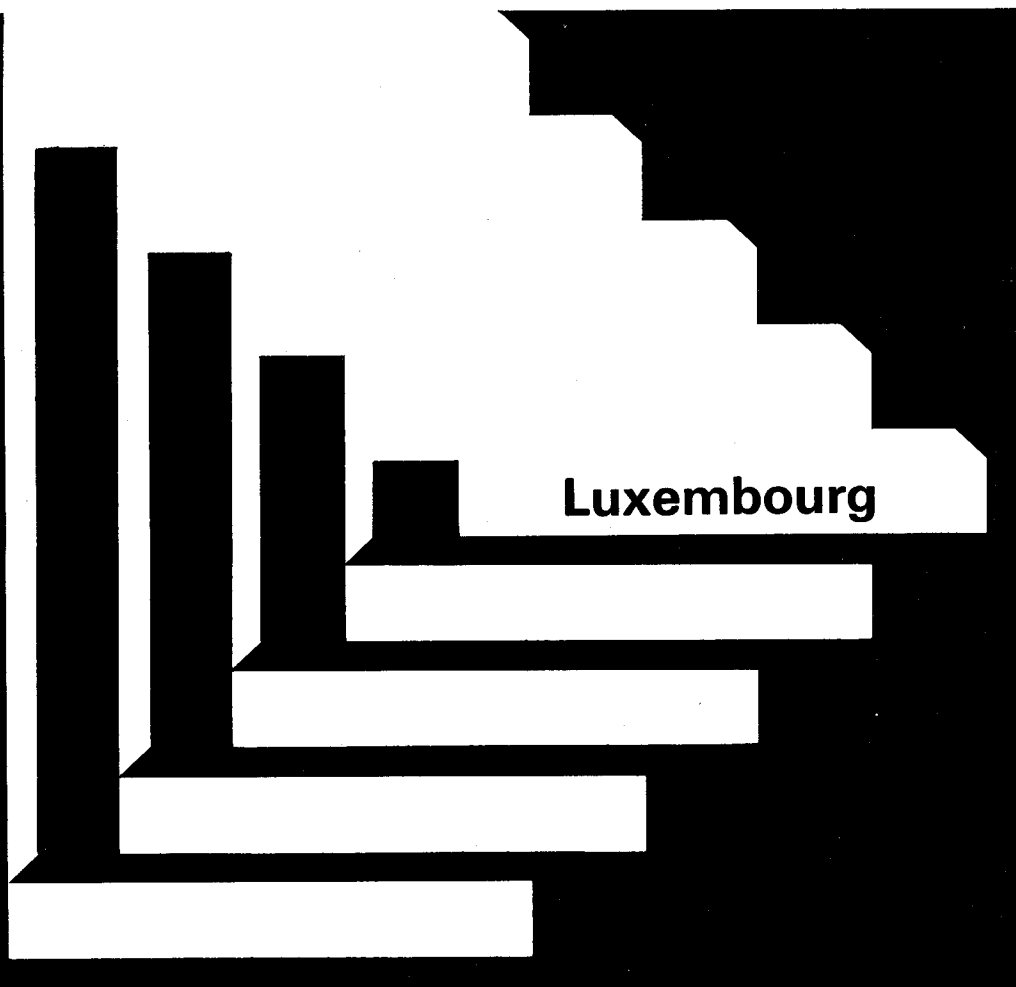


Social security for migrant workers



Guide No 1

**concerning the rights and obligations
with regard to social security
of employed persons going to work in
LUXEMBOURG**

In your own interest

READ THIS GUIDE CAREFULLY

1976

**This Guide gives only general guidance.
It must not be treated as a complete and authoritative statement
on the law in any particular case.**

**This publication was prepared by the Administrative Commission of the
European Communities on Social Security for Migrant Workers.
(Secretariat : 200 rue de la Loi, Brussels, 1049 Belgium)**

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Useful addresses (inside back cover).

Introduction

Under the Treaty establishing the European Economic Community workers who are nationals of one of the Member States of the European Communities have the right to pursue an employment in another Member State under the same conditions as nationals of that State. The EEC Treaty also provides for the adoption of measures permitting workers moving from one Member State to another to have taken into account periods of insurance which they have completed under the social security schemes of the various Member States in which they have been employed.

To this end the Council of the European Communities drew up Regulations Nos 1408/71 and 574/52 which came into force on 1 October 1972 for Belgium, Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands, and on 1 April 1973 for Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland (including Gibraltar).¹

This Guide is designed to inform you about the rights which you and the members of your family may exercise as regards social security and to draw your attention to your duties and the formalities to be completed to qualify for the various social security benefits.

¹ These Regulations replaced Regulations Nos 3 and 4 which had been in force from 1 January 1959 to 30 September 1972.

The Guide comprises two parts:

- Part I, which sums up the main provisions of the Community Regulations;
- Part II, which briefly outlines the social security system of the Member State of the European Communities where you are going to work, as well as the benefits available and the conditions and formalities to be fulfilled to qualify for benefits.

A similar guide exists for each Member State of the European Communities.

- Read this Guide carefully before your departure and make sure to obtain the forms mentioned in Part II

In case of doubt please consult the insurance authorities or institutions of the country you are leaving or your new employer.

The other Guides available deal with the following cases:

- Temporary residence (stay) in a Member State of the European Communities (Guide No 2);
- Workers who are sent by their employers to another Member State for a limited period, international transport workers and other workers regularly employed in more than one Member State, e.g. commercial travellers (Guide No 3);
- Pensioners and pension claimants (Guide No 4);
- Members of a migrant worker's family who have stayed behind in a Member State other than the one in which he is working (Guide No 5).

Part I

The Community Regulations

1. To whom do the Community Regulations apply?

These Regulations apply to you if you are either:

- (a) a worker or pensioner pursuing or having pursued an activity as an employed person and if you have the nationality of a Member State of the European Communities (see section 2 below) or are a stateless person or a refugee resident in a Member State; (Officials of public bodies are considered as employed persons for the branches of social security in respect of which they are insured in a scheme covering employed persons);
- (b) a member of an employed person's or a pensioner's family fulfilling the conditions set out at (a) above;
- (c) a survivor of an employed person or a pensioner pursuing or having pursued an activity as an employed person, regardless of the worker's or pensioner's nationality, provided you are a national of a Member State or a stateless person or a refugee resident in a Member State.

With the exception of certain specific cases, the Community Regulations *do not apply* to self-employed persons or to pensioners who had been self-employed.

This list is not complete. Should you wish to know whether you are covered by the Regulations, please consult the institution with which you are insured (see Part II).

2. To which countries do the Community Regulations apply?

You are covered by the Regulations only if you are resident or staying in a Member State of the European Communities listed below:

Belgium

Denmark

Federal Republic of Germany

France

Ireland

Italy

Luxembourg

the Netherlands

the United Kingdom of Great Britain and Northern Ireland (including Gibraltar).

3. What are the aims of the Community Regulations?

- (a) One of the principal aims is to ensure that, as regards social security you will receive the same treatment as the nationals of any of the countries mentioned at section 2 above when you go there for work.
- (b) Another important aim of the social security Regulations is to ensure that by going to work in another Member State you do not lose the advantages acquired in respect of periods during which you were subject to the social security scheme of another Member State. In order to get certain social security benefits you must, under the legislation of the Member State concerned, have been either insured, employed or resident in that Member State for a specified period known as the 'qualifying period'. The Community Regulations provide that periods completed in the various Member States where you have worked must be taken into account, if necessary, to ensure that you will have completed the qualifying period prescribed by the legislation of the Member States where you are seeking benefits.

For instance, supposing you are claiming a retirement pension and you had been insured in Member State A for five years after which you went to Member State B where, you had a job and paid contributions for the next ten years. The legislation of country A as well as that of country B require that, to qualify for a retirement pension, you must have been insured in the

country for 15 years. In that case your five years of insurance in country A will be counted so as to make you fulfil the conditions laid down by the legislation of country B. Similarly, the ten years of insurance which you completed in country B will be counted so that you can fulfil the condition required by the legislation of country A.

Details on how the retirement pension will be calculated by each of these countries are given in section 4 B below.

The Community Regulations also provide that when you go to work in another Member State periods completed in the Member State where you had worked before may be used to enable you to receive sickness, maternity and unemployment benefits in the other Member State.

- (c) In general you will be insured under the social security legislation of the Member State in which you are employed. There are certain exceptions to this rule: for instance, workers posted abroad, i.e. workers sent by their employer to another Member State for a limited period, international transport workers and other workers regularly employed in more than one country. If you fall into one of these groups please consult Guide No 3.
- (d) An additional aim of the Community Regulations is to guarantee that you and the members of your family are granted the benefits for which you are eligible in whichever Member State you or they may be.

4. To which benefits are you entitled?

The following is a list and short description of the benefits which you can claim.

A. Sickness and maternity benefits (including medical benefits)

- (a) If you reside in a Member State other than the one in which you are insured, you and the members of your family may obtain benefits in kind (medical care, dental treatment, drugs and medicines, hospital treatment, etc.) through the institution of your place of residence as if you were insured with that institution.

Cash benefits to which you or your family may be entitled under the legislation of the Member State where you are insured are as a rule paid directly by the institution with which you are insured.

The members of your family may also obtain benefits if they are living in a Member State other than that in which you reside or are insured.

- (b) Under certain conditions you and the members of your family are entitled to benefits in kind while temporarily residing in (visiting) a Member State other than the one in which you are insured. The benefits in kind that you may claim are those provided for by the legislation of the Member State you are visiting.

You may also be entitled to receive cash benefit during such a stay; this benefit will be at the rate, and for the

period, laid down by the legislation of the Member State where you are insured.

For your information about your rights and the formalities to be completed, please consult your sickness insurance institution.

B. Retirement pensions and survivors' pensions

As explained in section 3 (b) above, if you had been insured in a Member State but if that period of insurance was not long enough to entitle you to a pension under the legislation of that State, account must also be taken of insurance periods completed in other Member States.

To go back to the example quoted at 3 (b), where it was assumed that you were insured in country A for five years and in country B for ten years, while the 'qualifying period' (prescribed minimum insurance period) in both Member States was 15 years. In that case you are entitled to a pension from each of these States which is calculated as follows: country A and country B each calculate the pension to which you would have been entitled had you been insured there during the whole of your insurance history, i.e. for 15 years. Once these amounts have been determined, you will receive a fraction of those amounts in proportion to the periods during which you were actually insured in each of the two countries.

In the above example:

- Country A would pay you a pension amounting to $\frac{5}{15}$ th of the pension that you would have been entitled to if you had been insured there for 15 years;
- Country B would pay you a pension amounting to

10/15th of the pension that you would have been entitled to if you had been insured there for 15 years.

If, however, in either or both of these countries the qualifying condition is fulfilled without having to take into account insurance periods completed in the other country, each of the countries in which the conditions is thus satisfied will calculate, in accordance with its own legislation, the pension due to you for the insurance periods you have completed in the country concerned. This amount will be paid to you if it is greater than the fraction calculated above.

The sum of the pensions may not be less than any minimum pension fixed by the legislation of the country where you are resident provided that you are entitled to a pension from that country.

C. Invalidity pensions and invalidity allowances

What was said at B. above applies generally to invalidity pensions. However, if you have been insured only in countries whose legislation provides that the amount of invalidity pension is not linked to the length of insurance—Belgium, France (except for the invalidity scheme for miners), Ireland, the Netherlands and the United Kingdom—you will receive one pension only; as a rule, that will be the pension of the Member State where you were last insured.

D. Accidents at work and occupational diseases

As with sickness benefit, you may receive benefit for accidents at work in cash and kind whilst staying or residing in a Member State other than the one where the institution responsible for paying benefit for that accident is situated.

Special rules exist for the granting of pensions payable for cases where an occupational disease has been contracted as a result of employment in several Member States.

Special rules also exist for cases where there has been an aggravation of an occupational disease.

E. Unemployment benefit

By taking into account periods during which you have been insured or employed in another Member State, the Community Regulations may enable you to receive unemployment benefit in a Member State where you have only worked very briefly.

You may also continue to receive unemployment benefit on certain conditions when you are leaving the Member State where you became unemployed to look for work in another Member State (see Part II).

Special rules exist for the case where during your last employment you were resident in a Member State other than that in which you were insured.

F. Family allowances

In general family allowances will be payable in respect of your children even if they are being brought up in a Member State other than the one where you are working.

Part II

Social security in Luxembourg

1. General introduction

1. Risks insured against under Luxembourg legislation

The following benefits are provided by the Luxembourg social security system:

- sickness and maternity benefits;
- invalidity, old age and survivors' benefits (pensions);
- benefits for accidents at work and occupational diseases;
- unemployment allowances;
- family benefits.

If you are working in Luxembourg, you are entitled to social security benefits under the same conditions as Luxembourg workers.

Members of your family who are living in Luxembourg are entitled to the same benefits as the members of the family of a Luxembourg worker.

There are various bodies which are competent to provide benefits depending on whether you are a manual or a clerical worker.

Benefits for accidents at work and occupational diseases and unemployment benefits, however, are provided by bodies which deal with both manual and clerical workers.

Information on these bodies is provided at the end of each chapter on the various categories of benefits.

2. How to register

As soon as you start working in Luxembourg your employer should complete the formalities required to register you under the social security institutions. You do not, therefore, need to take any steps.

3. Contributions you have to pay

You have to pay sickness and maternity insurance and invalidity, old age and survivors' insurance contributions which amount to a percentage of your wage or salary. You pay half of these contributions while your employer pays the other half.

Your employer is responsible for the payment of contributions. He is therefore entitled to deduct your share of contributions from your pay-packet.

In certain types of insurance that part of your earnings which exceeds a specified amount is not taken into consideration when the contribution is being calculated.

You do not have to pay any contributions for insurance against accidents at work, family benefits and unemployment allowances.

4. What you have to do if you do not agree with a decision of an institution

In such a case you may appeal to the *Conseil arbitral des assurances sociales* (social insurance arbitration board) in Luxembourg within 40 days of being notified of the decision.

You may appeal against a decision of the *Conseil arbitral* to the *Conseil supérieur des assurances sociales* (higher

social insurance board) in Luxembourg within the same period after being notified of the decision of the *Conseil arbitral*.

The appeal should be made in two copies on plain paper. You may make it in English.

In the case of unemployment allowances, however, your appeal must be made in writing, clearly stating your reasons within four weeks to the "Commission nationale de l'Emploi" (national commission on employment) in Luxembourg.

2. Sickness and maternity insurance

1. Persons covered

The following are insured:

- (a) manual workers and clerical staff who work in return for earnings;
- (b) apprentices;
- (c) domestic staff who usually work more than 16 hours per week;
- (d) unemployed persons who are receiving unemployment allowances;
- (e) persons receiving an old age, invalidity or survivors' pension;
- (f) persons receiving an accident or occupational disease pension for a reduction of earning capacity of at least 50%, and persons receiving a survivors' pension for this reason.

Members of the family of insured persons referred to above who are members of his household and dependent on him are also covered.

2. Benefits provided

The insurance institution provides:

- (a) benefits in kind for sickness or maternity;
- (b) cash benefits for incapacity for work owing to sickness or maternity;
- (c) death grants in the case of death.

3. Conditions you have to fulfil for the award of benefits

There is no waiting period for sickness insurance benefits.

To qualify for maternity benefits, however, the insured persons should have been registered for at least six months during the year before confinement. To meet this condition insurance periods completed in another Member State are, if necessary, taken into account. For this purpose, you should submit to the Luxembourg sickness insurance fund a certificate on Form E 104, which was issued to you at your request before you left that country, by the sickness insurance institution with which you had previously been registered. If you do not have this certificate, the Luxembourg sickness fund will request it from the institution concerned.

4. Benefits in kind

These benefits include:

- (a) medical and dental treatment;
- (b) refund of travel and transport costs;
- (c) medicines, drugs, etc.;
- (d) curative and other items (prostheses, glasses, etc.);
- (e) X-ray examinations and treatment;
- (f) stay and treatment in hospital;
- (g) maternity benefits.

These benefits are provided for an unlimited period from the beginning of the illness for as long as you are registered. If you terminate registration with a sickness fund benefits are provided for a further 26 weeks for illness which are already being treated.

As a rule, these benefits are reimbursed in full on the basis of a tariff agreed on between the sickness funds and the persons or institutions providing treatment. In some cases, however, the insured person may have to contribute to the cost of treatment. Thus, you have to pay 20% of the fees for the first doctor's visit to your home within 28 days. You also have to pay 15% of the cost of certain medicines.

Maternity benefits are provided as a lump sum which covers assistance by the doctor and midwife, the stay in a maternity hospital or clinic, medicines, and dietary products for infants.

It should be noted that costs which exceed what is strictly necessary are not refunded. Thus, for example, you have to pay for more than two consultations or home visits per seven-day period, unless authorized by the fund, for first-class treatment in hospital and for consultation by appointment.

5. Formalities to be completed

(a) to obtain sickness benefits in kind

You may apply to any doctor, hospital or other person or establishment providing health services.

You should show your insurance card as proof of identity for medical consultations and visits.

Prior authorization by the fund is required for some benefits; for further details apply to your fund.

(b) to obtain maternity benefits

To obtain the lump sum for confinement the new-born child's birth certificate must be produced.

6. Payment of benefits

As a rule you should settle all accounts for treatment provided and apply to the sickness fund for a refund, taking into account any part you may have to pay yourself.

However, the cost of hospitalization, operations and medicines are settled between the sickness funds and the persons or establishments which provided the benefits; you need to pay only the amount not reimbursed by the sickness fund.

7. Cash benefits

These benefits include:

- (a) a cash allowance (*indemnité pécuniaire*) if you fall ill;
- (b) a household allowance (*allocation ménagère*) if you have dependants and require treatment in hospital;
- (c) an allowance (*pécule*) if you are without dependants and require treatment in hospital;
- (d) a cash allowance for maternity (*indemnité pécuniaire en cas de maternité*).

The cash allowance for sickness is awarded from the first day of sickness onwards for up to 52 weeks.

The cash allowance for maternity is awarded for eight weeks before and eight weeks after confinement.

The cash allowance for sickness or maternity corresponds to the earnings you would have received if you had been able to continue working.

The household allowance is equal to the cash allowance for illness during the first ten days of hospitalization, and equivalent to 85% from the eleventh day onwards.

The allowance amounts to 1/3 of the cash allowance in the case of illness.

These benefits are not awarded as long as your employer continues to pay you your wage.

8. Formalities to be completed

(a) to obtain cash allowances for illness

Within three days of the beginning of incapacity you should submit a medical certificate drawn up by your doctor. If you are incapable of working for only one day, the medical certificate should be drawn up on that day.

To do so, you should submit one copy of the medical certificate to the sickness fund and the other to your employer.

If the statement is submitted late you are awarded the cash allowance only from the day on which incapacity is notified.

You have to undergo the medical test to which you will be called by the fund's consulting doctor. If you do not undergo the test the allowance will be stopped.

(b) to obtain maternity benefits

In order to obtain cash benefits for maternity during the eight weeks before confinement, you should submit to the sickness fund a medical certificate giving the expected date of confinement.

9. Payment of benefits

As a rule, cash allowances are paid at least twice monthly. In certain cases they may be temporarily advanced by your employer.

10. Funeral allowance

On the death of a worker or of a member of his family a lump-sum funeral allowance is granted to the person who bears the cost of the funeral, on submission of all accounts relating to the cost of the funeral together with a death certificate.

For children aged under 6 or still-born infants this allowance is respectively one-half and one-fifth of the normal rate.

11. Competent institutions

The sickness and maternity institutions are:

- (a) The *Caisse nationale d'assurance maladie des ouvriers* (national sickness insurance fund for manual workers), Luxembourg, which has branches in the more important towns in the country;
- (b) the *Caisse de maladie des employés privés* (sickness fund for clerical staff in the private sector);
- (c) the sickness funds of undertakings.

All workers employed in Luxembourg who are not members of a firm's sickness fund are insured with the national sickness fund for manual workers.

All clerical staff in the private sector who are employed in Luxembourg and who are not members of a firm's sickness

fund are insured with the sickness fund for clerical staff in the private sector.

Workers and clerical staff employed by S.A. Arbed or by S.A. Métallurgique et Minière de Rodange-Athus are insured with the sickness funds of those firms.

The members of the family obtain benefits from the fund with which the head of household is insured.

12. Provision of benefits in another Member State

(a) If the members of your family reside in a Member State other than Luxembourg

Dependent members of your family who are residing outside Luxembourg are entitled, in the Member State in which they are staying, to benefits in kind provided by the sickness fund of their place of residence as if they were insured there.

You should apply for form E 109 (in duplicate) to your sickness fund and send it to the members of your family. They are told on page 3 of the form to which institution they have to submit it. For further information see Guide No 5.

(b) If you are staying only temporarily in another Member State

● *Benefits in kind*

If you are staying only temporarily in another Member State, for instance, if you go there on holiday or to visit your family, you should, before your departure, apply to your sickness fund for form E 111. This form entitles you to benefits in kind in the country where you are staying. If you or a member of your family who is accompanying you requires treatment, you should submit the form to the

sickness insurance institution of the country you are staying in, as set out in the instructions on the back of the form.

You do not need this form to obtain health treatment in the United Kingdom.

- *Sickness benefits*

If you fall ill during a stay in another Member State, you should notify your illness to the sickness insurance institution of the place where you are staying. That institution will inform the Luxembourg sickness fund.

As long as you are incapable of working, you should undergo the medical tests laid down by the sickness insurance of the place where you are staying.

If you are entitled to sickness benefits, they are paid by the Luxembourg sickness fund to you in the place where you are staying.

You will find further information in Guide No 2.

(c) If you fall ill in Luxembourg and you wish to return to your own country or go to another Member State

You continue to be entitled to sickness benefits and benefits in kind only if the sickness fund has allowed you to leave Luxembourg. You should therefore first apply for permission to the fund, which will issue form E 112 to you. You should submit that form to the sickness insurance institution of the place you are going to, in accordance with the instructions on the back of the form.

(d) If you are unemployed and you are looking for work in another Member State (see point 7 on p. 47)

In order to be entitled to sickness insurance benefits (in cash and kind for you, and in kind for members of your

family accompanying you) in the country where you are looking for work, you should before your departure apply to your sickness fund for form E 119.

As soon as you or a member of your family require treatment, you should submit the form, together with form E 303, to the sickness insurance institution of the country where you are looking for work. The institutions concerned are listed on page 3 of Form E 119.

If you yourself fall ill, you should inform the institution that you are also applying for cash benefits.

As long as you are incapable of working, you have to undergo the medical tests laid down by the sickness insurance institution of the place where you are staying.

If you are entitled to sickness benefits, they are paid by the Luxembourg sickness insurance fund to you in the place where you are staying.

3. Pension insurance (for invalidity, old age and survivors)

1. Persons covered

Workers, apprentices, domestic staff and clerical workers in the private sector who work for another person in return for remuneration.

2. Benefits provided

The following benefits and pensions are provided:

- (a) invalidity pensions;
- (b) old age pensions;
- (c) survivors' pensions (widows and orphans);
- (d) other benefits.

3. General conditions for the award of a pension

In order to draw a pension, you should fulfil the following general conditions in addition to the special conditions set out in section 4 below:

- (a) Your entitlement to the pension must be maintained; in the scheme for workers you must have been insured for at least 160 days during each period of two consecutive years or an average of 180 days per year since becoming insured. In the scheme for clerical workers in the private sector entitlement to a pension is maintained if you have been insured for an average of eight months per year since becoming insured.

To fulfil these conditions and the minimum waiting period outlined in section 4, insurance periods you have completed in one or more Community countries are aggregated with Luxembourg insurance periods.

- (b) To obtain the fixed part of Luxembourg pensions (see point 5 below) you must have resided in Luxembourg for 180 months. If you have not fulfilled this condition while all the other conditions for the award of a pension have been fulfilled, you are entitled to a fraction of the fixed part in proportion to the number of months of actual residence. Insurance periods completed under the Luxembourg pension insurance scheme by workers who do not reside in Luxembourg (e.g. frontier workers) are treated as residence periods for the purposes of obtaining the fixed part.

4. Special conditions for the award of a pension

(a) invalidity pension

You must

- have completed a twelve-month waiting period,
- be an invalid. In the scheme for manual workers a person who has an incapacity for work of $\frac{2}{3}$ is deemed to be an invalid, while in the scheme for clerical workers in the private sector a person must be permanently incapable of the occupation he had previously exercised or any other occupation which corresponds to his education or practical training.

If your invalidity is the result of an accident at work or an occupational disease the completion of the 12-month waiting period is not required. The same applies to the

180-month residence condition for obtaining the fixed part.

(b) old age pension

You must

- have completed a waiting period of 60 months' insurance cover;
- have reached the age of 65.

Under special minimum insurance periods the old age pension may be awarded from the age of 62 in the scheme for workers and from the age of 60 in the scheme for clerical workers in the private sector on condition that you give up any professional or trade activity you may be carrying out.

(c) survivors' pension

The deceased insured person should have completed a waiting period of twelve months.

If the worker's death was due to an accident at work or an occupational disease, the 12-month waiting period is not required. The same applies to the 180-month residence condition for the fixed part.

The widow's pension is, however, not awarded if

- (a) the worker died during the first twelve months of marriage, unless a child was conceived or born of the marriage, or if death was due to an accident;
- (b) at the time of marriage the worker received an old age or invalidity pension.

5. Amount of the pension provided

(a) The invalidity pension consists of

- a fixed part,
- increases amounting to 1.6% of earnings declared during the whole of your stay in Luxembourg, and
- a supplement for each child which would have qualified for an orphan's pension if the insured person had died.

If you become an invalid before the age of 55, your pension is calculated as if invalidity had been diagnosed at that age. For this purpose your pension is augmented by a special increase for each calendar month from the time entitlement to the pension is acquired until the age of 55. This special increase amounts to 1.6% of the minimum wage for the period before the age of 35, and 1.6% of the same earnings, increased by 20%, for the period from that age to the age of 55.

(b) The old age pension consists of

- a fixed part,
- increases amounting to 1.6% of stated earnings during the whole of your stay in Luxembourg, and
- a supplement for each child which would have qualified for an orphan's pension if the insured person had died.

(c) The widow's pension consists of

- the fixed part,
- $\frac{2}{3}$ of increases for invalidity and old age pensions, and
- a supplement for each child receiving an orphan's pension.

If the worker dies before the age of 55, the widow's pension is increased by $\frac{2}{3}$ of the special increases, determined as outlined in section (a) above, on condition that the widow

- has reached the age of 45, or
- suffers from incapacity for work of at least 50%, or
- is bringing up or has brought up a child.

The rate of $\frac{2}{3}$ of increases and special increases is progressively reduced to 60% if the widow's pension exceeds a certain amount.

If the widow remarries the pension is terminated by a final lump-sum settlement equivalent to 60 months' pension if she is aged under 50, or 36 months' pension if she is aged over 50. Special increases do not form part of the lump-sum settlement.

(d) The orphans' pension consists of

- $\frac{1}{3}$ of the fixed part,
- 20% of the increases for invalidity and old age pensions,
- a supplement, and
- if the insured person dies before the age of 55, 20% of special allowances, determined as in section a) above.

Children both of whose parents have died are granted a double pension.

The orphans' pension is awarded up to the age of 18. It is continued up to the age of 25 if the children concerned are receiving full-time education; there is no age limit for children who are unable to earn their living owing to physical or mental disability.

The total amount of survivors' pensions may not exceed the pension the deceased person had received when he died or which he would have received had he still been working.

(e) Minimum pension

If the pension calculated as shown above is less than the minimum laid down by law you receive a supplement to bring the pension up to the minimum.

The minimum varies depending on whether you can produce evidence of 10 or 35 years of insurance.

The widow receives 2/3, and each orphan receives 20%, of the supplement on condition that the total supplements awarded to the survivors do not exceed the supplement the worker had received or which he would have received.

6. Determination of the pension if you had been insured in two or more Member States

In such a case the amount of your pension is determined according to the rules laid down in Part I, section 4 B and C, of this Guide.

7. How your pension is adjusted

Pensions are automatically adjusted to changes in the cost of living. In addition to this, pensions are also adjusted at least once every five years to keep pace with the average level of wages. This adjustment is determined by a special law.

8. Formalities to be completed

To obtain a pension you should submit an application to the Luxembourg pension insurance institution on the

application form of that institution. The supporting documents to be enclosed are listed on the application forms.

If you are residing in another Member State, you may submit your application to the pension insurance institution of that country.

9. *Payment of pensions*

Pensions are paid monthly and in advance.

If you reside in another Member State, the pension is paid directly to you in that country.

10. *Other benefits*

- *Medical treatment*

The insurance institution may authorize medical treatment to prevent incapacity for work or to restore an insured person's ability to earn his living.

- *Three-monthly allowance*

If at the age of 65 the conditions required to obtain a pension have not been satisfied even when insurance periods completed in other Member States are taken into account, an allowance equivalent to 1.6% of earnings declared to the Luxembourg pension insurance fund is awarded if earnings correspond to at least four years of insurance. This allowance is also awarded to the worker's survivors at the same rate as are increases of survivors' pensions. It is paid at the end of each quarter.

- *Refund of contributions*

If the conditions for obtaining a three-monthly allowance

have not been fulfilled the contributions actually paid are refunded at their face value.

- *Compensatory allowance*

If the pension is below a certain level, a compensatory allowance is awarded. This allowance is subject to a means test.

11. *Competent institutions*

- (a) In the case of workers, the *Etablissement d'assurance contre la vieillesse et l'invalidité* (old-age and invalidity insurance institution), Luxembourg.
- (b) In the case of clerical staff, the *Caisse de pension des employés privés* (pension fund for clerical staff in the private sector), Luxembourg.

4. Insurance against accidents at work and occupational diseases

1. Persons covered

All workers, apprentices, domestic staff and clerical workers in the private sector employed in Luxembourg are covered.

2. Risks insured against

- (a) actual accidents at work;
- (b) accidents while travelling;
- (c) occupational diseases.

An accident at work is an accident which arises out of and in the course of work.

An accident while travelling is an accident which occurs on the usual way taken to or from the workplace. A person insured under Luxembourg legislation who is injured in such an accident outside the country shall be treated as if the accident happened in Luxembourg.

A list of occupational diseases has been drawn up, but compensation may be paid for illnesses not on the list if it can be proved that they were caused by your work.

3. Benefits provided

- (a) benefits in kind as a result of the accident or occupational disease;
- (b) cash benefits for incapacity for work (cash allowance and pension);

- (c) survivors' benefits if the person concerned dies as a result of the accident or occupational disease (funeral allowance and pension).

4. *Benefits in kind*

Benefits in kind include medical treatment, medicaments, the cost of hospitalization and the provision of all means required to ensure that the treatment remains effective. There is no time limit on these benefits, and you do not need to contribute to the cost within the limit of the rates agreed on by the *Association d'assurance contre les accidents* (accident insurance association) and the person or establishment providing treatment.

You may apply to any doctor, hospital or other person or establishment providing treatment.

5. *Cash benefits*

The following cash benefits are provided:

- (a) a cash allowance as long as your incapacity for work does not exceed 13 consecutive weeks after the accident;
- (b) a household allowance (*allocation ménagère*) if you have dependants and need to be hospitalized;
- (c) an allowance (*pécule*) if you do not have dependants and need to be hospitalized;
- (d) a pension if your incapacity for work exceeds 13 weeks.

The cash allowance corresponds to what you would have earned if you had been able to continue working.

The household allowance is equal to the cash allowance for the first three weeks of hospitalization; from the fourth

week onwards it is equal to the pensions which would be payable if the worker died (see point 6 below).

The allowance is equal to 2/3 of the cash allowance for the first three weeks of hospitalization, and equal to 1/4 of the latter allowance from the fourth week onwards.

The pension is calculated on the basis of your annual earnings during the year before the accident in the undertaking in which you were working. If you are a worker in agriculture, the pension is calculated on the basis of lump-sum earnings fixed each year by the Government.

In the case of total incapacity the pension amounts to 80% of earnings (full pension). For partial incapacity the pension is a fraction of the full pension, depending on the degree of incapacity.

If your pension is provided for an incapacity of at least 50%, your pension is increased by 10% for each dependent child aged under 18. This supplement is provided up to the age of 25 if the child is receiving full-time education, and there is no age limit if, as a result of physical or mental handicap, the child is unable to earn its living. Your children who are residing in another Member State are taken into account for the award of this supplement.

The pension and supplement(s) may not exceed your previous earnings.

6. Survivors' benefits

These benefits consist of

- (a) a funeral allowance;
- (b) a pension for the widow;

- (c) a pension for the children of the deceased;
- (d) a pension for other relatives.

The funeral allowance amounts to 1/15th of the deceased's annual earnings. The widow's pension amounts to 40% of her deceased husband's earnings (50% if her incapacity for work is at least 50%).

The pension for children is 20% of the earnings. It is awarded up to the age of 18 (25 if they are receiving full-time education, and without age limit if handicapped).

In certain circumstances a pension is also awarded to other close relatives. This pension may not exceed 30% of previous earnings, or 20% for grand-children.

The total amount of such pensions may not exceed 80% of the worker's previous earnings.

7. How your pension is adjusted

Pensions are automatically adjusted to changes in the cost of living. In addition to this adjustment, pensions for accidents at work are adjusted every five years at least to keep pace with the average level of earnings. This adjustment is made by a Government regulation.

8. Final lump-sum settlement

If you are receiving a pension for incapacity of less than 10% your pension is, three years after the accident, automatically replaced by a lump-sum the amount of which depends on your age (lump-sum settlement). Under certain conditions you may request a lump-sum settlement if in-

capacity exceeds 10% but is less than 40% you may be awarded a loan on mortgage if incapacity is over 40%.

If a widow remarries, the automatic final lump-sum settlement in lieu of continued payment is equal to 60 months' pension if she is aged under 50, or 36 months' if she is over 50.

9. Formalities to be completed following an accident at work

You should inform your employer without delay. You should notify the sickness fund of your incapacity for work within the same period of time as in the case of incapacity for work due to illness (see point 8 on p. 26).

10. Payment of benefits

The cost of medical treatment, medicaments, hospitalization etc. is settled between the insurance institution and the person or institution providing the benefit.

Cash benefits are paid at least twice monthly.

Pensions are paid monthly and in advance .

11. Insurance institution

All workers, with the exception of persons working in agriculture, are covered by the *Association d'assurance contre les accidents, section industrielle* (accident insurance association, industrial department), Luxembourg.

Agricultural workers are covered by the *section agricole et forestière* (agricultural and forestry department) of that association.

12. *Payment of benefits in another Member State*

If you have been injured in an accident at work in Luxembourg and you are staying in, returning to or moving to another Member State, you can continue to receive benefits in kind while in that other Member State. In order to do so, you should, before your departure, apply to the Luxembourg accident insurance institution for form E 123. If you require treatment you should submit the form to the insurance institution of the country to which you have gone, in accordance with the instructions on the back of the form. The same applies if you are going to another Member State for treatment.

Cash allowances and pensions are paid directly to you in the Member State in which you are staying by the Luxembourg institution.

5. Unemployment benefits

1. *Persons covered*

All employed persons who are unemployed though no fault of their own with the following exceptions:

- agricultural workers;
- domestic staff;
- married women whose husbands work regularly and earn a normal wage;
- workers whose activity is usually restricted to a certain period each year;
- persons who have other employment in addition to their main occupation, and
- workers whose periods of unemployment cannot be checked, such as commercial travellers, and insurance agents who work for more than one employer.

2. *Conditions for the award of unemployment allowances*

You must

- have become unemployed owing to circumstances beyond your control;
- be fit for work and willing to accept any work for which you are qualified;

The unemployment benefits scheme was amended and improved by a Law of 30 June 1976. Details on the amendments to points 1 to 6 can be obtained by applying to the "Administration de l'Emploi" (employment service) in Luxembourg.

- be aged between 16 and 65;
- be available to the *Office national du travail* (national labour office);
- have worked for at least 200 days during the twelve months immediately before becoming unemployed. Certain periods during which you did not work (e.g. sickness, leave) are regarded as days worked. If you do not fulfil this condition and if you had previously been employed in another Member State, insurance and employment periods completed there are taken into account as far as they are required. For this purpose you should submit to the national labour office form E 301 issued by the unemployment insurance institution of the country where you were previously employed. If you do not submit this certificate the national labour office will request it from the appropriate institution in the other country.

3. Benefits

The unemployment allowance amounts to 60% of your earnings. Earnings taken into account may not, however, exceed a certain limit.

Your allowance may be reduced if you have other income.

The unemployment allowance is provided for each calendar day. It is provided from the third day after which you became unemployed. If you are unemployed for more than a week, the allowance is also provided for the first two days.

Unemployment allowances are provided for a maximum of 26 weeks during any twelve-month period.

4. Formalities to be completed

You should apply to either the national labour office or one of its branches or to the secretariat of the commune where you are resident.

You should then go to that office at regular intervals to have your '*carte de chômeur*' (unemployment card) stamped.

5. Payment of unemployment allowances

The allowances are paid by postal order at the end of each week of unemployment.

6. Competent institution

The competent institution for investigating applications and providing benefits is the *Office national du travail* (national labour office) which has its head office in Luxembourg and branches in Esch-sur-Alzette, Diekirch and Wiltz.

7. Provision of benefits if you are unemployed and go to another Member State to look for work

If you have been awarded unemployment allowances in Luxembourg you retain that award if you go to another or several Member States to look for work, provided that you have been registered in Luxembourg as looking for work at least four weeks before setting out.

Before your departure you should obtain form E 303 from the national labour office.

As soon as you arrive in the country in which you are looking for work, you should report to the employment

service of that country. At item 3 of form E 303 you will find the date by which you should report to that service if you wish to receive unemployment allowances from the time you ceased to be registered as looking for work in Luxembourg.

While you are seeking work in another Member State you must undergo the same checks as are carried out on other unemployed persons in that country. You should inform the institution to which you submitted form E 303 of any change in your situation which could affect your right to unemployment allowances.

The unemployment allowances are paid by the institution of the country where you are looking for work.

You retain the right to Luxembourg unemployment allowances for up to three months, as long as the total period for which you are entitled to benefits under Luxembourg legislation (26 weeks) is not exceeded. If you do not return to Luxembourg within three months you lose the rights you may still have there.

6. Family benefits

1. Persons entitled to receive family benefits

If you are living in Luxembourg and your dependent children are staying with you, you are entitled to family allowances for those children.

You are also entitled to the family allowances for children who are being brought up in another Member State if you are employed in Luxembourg or if you are receiving one of the following allowances:

- cash allowance for illness;
- cash allowance for an accident at work;
- accident pension;
- unemployment allowance.

2. Children entitled to family allowances

You are entitled to family allowances for dependent children

- as a rule, up to the age of 19;
- up to the age of 25 for children who are receiving full-time education;
- without age limit if the child is suffering from a physical or mental handicap.

The family allowance is no longer payable after the month in which the child marries or dies.

3. Benefits

Benefits consist of

- standard family allowances and
- supplementary allowances.

The level of the standard family allowances is the same for each of the first two children. It is considerably higher from the third child onwards.

In addition to the standard family allowance, the supplementary allowance is awarded for each child aged under 19 suffering from a physical or mental handicap of at least 50% in relation to a normal child of the same age. The amount of the supplementary allowance is the same as the standard family allowance for each of the first two children.

Family allowances are automatically adjusted to changes in the cost of living.

4. Formalities to be completed

You should submit an application to the family allowances fund. Application forms are available from that institution or from administrations of the communes of the country. Supporting documents to be enclosed are listed on the application forms.

If your children are not living with you in Luxembourg, Form E 401, on the composition of your family, should be enclosed with your application.

Increased allowances are payable for children aged over 6 and over 12.

5. *Payment of allowances*

Family allowances are paid monthly to the father if the child is being brought up by both parents living under the same roof. If the parents are separated, the allowances are paid to whichever parent has actual custody of the child.

6. *Other benefits*

On the birth of a child you are, under the following conditions, entitled to a childbirth allowance:

- your child must have been born in Luxembourg;
- you and your spouse should be legally resident in Luxembourg;
- you and your spouse should have resided in Luxembourg for at least five consecutive years.

The childbirth allowance is increased by a prenatal allowance if your wife has undergone two medical examinations during pregnancy, the first of which should have taken place by the end of the third month of pregnancy.

7. *Institutions for family allowances*

- for workers, the *Caisse d'allocations familiales des ouvriers* (manual workers' family allowances fund), Luxembourg;
- for clerical staff, the *Caisse d'allocations familiales des employés* (family allowance fund for clerical staff), Luxembourg.

Useful addresses

General practitioner:

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Dentist:

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Chemist:

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Sickness fund:

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Pension insurance institution:

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Accident insurance institution:

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National labour office:

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Family allowances fund:

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Social Security guides for nationals of the Member States of the European Communities moving from one Member State to another

● **Guide No. 1 — General guide**

This guide sets out the rights and obligations with regard to social security of employed persons going to work in a Member State of the European Communities.

There are nine separate booklets, each containing information concerning one Member State.

● **Guide No. 2 — Temporary stay**

This guide gives information for persons going to a Member State of the European Communities to stay there for a short period (holidays, family visits, business trips).

● **Guide No. 3 — Workers posted abroad or employed in more than one Member State**

This guide is intended for posted workers, international transport workers and other workers regularly employed in more than one Member State (e.g. commercial travellers).

● **Guide No. 4 — Pensioners**

This guide is designed for pensioners who were formerly employed persons and for pension claimants, who reside or stay temporarily in a Member State of the European Communities.

● **Guide No. 5 — Members of the family**

This guide is intended for members of a worker's family who reside in another Member State of the European Communities than the worker.