



COMMISSION OF THE EUROPEAN COMMUNITIES

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97/0201 (CNS)

Proposal for a

COUNCIL REGULATION (EC)  
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

(presented by the Commission)



## EXPLANATORY MEMORANDUM

### I. INTRODUCTION

Regulations (EEC) Nos 1408/71 and 574/72 were most recently amended and updated in a consolidated official text by Regulation (EEC) No 118/97<sup>1</sup>.

The purpose of this proposal is to update these Community Regulations to take account of changes to national legislation and certain bilateral conventions concluded between Member States. It is also necessary to take account of the amending of Article 95 of Regulation (EEC) No 574/72 by Regulation (EC) No 3095/95.

### II. EXPLANATIONS RELATING TO THE INDIVIDUAL ARTICLES

#### Article 1

##### *Amendments to Regulation (EEC) No 1408/71*

Articles 29 and 31 have to be amended as a result of the amending of Article 95 of Regulation (EEC) No 574/72 by Regulation (EC) No 3095/95, which replaces lump-sum reimbursement per family by lump-sum reimbursement per person.

#### 1. Amendment of Article 29(1)(a)

Article 29 regulates the provision of health and maternity insurance benefits for the members of the family of a pensioner who reside in the territory of a Member State other than the one in which the pensioner resides.

The proposal stipulates that the cost of benefits in kind provided by the institution of the place of residence of the family members shall be borne by the competent institution.

If the family members reside in the competent Member State, no reimbursement is necessary, as the benefits are provided by and at the expense of the competent institution.

#### 2. Amendment of Article 31(a)

Article 31(a) regulates the provision of health and maternity insurance benefits for pensioners and/or family members staying in a Member State other than the one in

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<sup>1</sup> OJ No L 28 of 30 January 1997.

which they reside. The proposal stipulates that since the institution of the place of residence of the family members receives lump sums per person, it shall, in the event of a stay by family members, reimburse the effective cost of benefits in kind to the institution of the place of stay which provided such benefits.

3. Amendment of Annex I, Part I

Annex I, Part I, lists the persons regarded as employed persons or self-employed persons within the meaning of Article 1(a)(ii) and (iii) of the Regulation.

The changes to section "G. IRELAND" take account of the consolidation and updating of the Irish Social Welfare (Consolidation) Act in 1993.

4. Amendment of Annex II, Part II

Annex II, Part II, lists the special childbirth allowances excluded from the scope of the Regulation under the terms of Article 1(u)(i).

The amendment to section "K. AUSTRIA" takes account of the abolition of the childbirth allowance in Austria.

5. Amendment of Annex IIa

Annex IIa lists the special non-contributory benefits granted to persons exclusively in the territory of the Member State in which they reside, in accordance with Article 10a of the Regulation. These are social security benefits directly linked to the economic and social environment of the Member State concerned.

In view of the changes made to Finnish unemployment legislation, the codification and updating of Irish and Italian legislation, and the introduction of new legislation in the Netherlands, it is necessary to add or amend certain items in sections "G. IRELAND", "H. ITALY", "J. NETHERLANDS" and "M. FINLAND".

6. Amendment of Annex IV

Part A of Annex IV relates to the legislation referred to in Article 37(1) of the Regulation, under which the amount of invalidity benefits is independent of the length of periods of insurance. Paragraph 1 of Part D of Annex IV refers to the benefits mentioned in Article 46b(2)(a) of the Regulation, the amount of which is independent of the length of periods of insurance or residence completed.

It is proposed that the reference to legislation in section "G. IRELAND" of Part A be amended in line with the consolidation and updating of the Irish Social Welfare (Consolidation) Act in 1993.

It is also proposed that the references to the General Law on incapacity for work (AAW) in subparagraph (b) of section "J. NETHERLANDS" in Part A and to the Law on general insurance for widows and orphans (AWW) in paragraph 1(f) of Part D be amended in order to take account of changes to Dutch legislation.

It is also proposed that the references to the General Law on incapacity for work (AAW) in subparagraph (b) of section "J. NETHERLANDS" in Part A and to the Law on general insurance for widows and orphans (AWW) in paragraph 1(f) of Part D be amended in order to take account of changes to Dutch legislation.

7. Amendment of Annex VI

Annex VI covers special procedures for applying the legislations of certain Member States.

a) Amendment of section "B. DENMARK"

The proposed amendment is designed to take account of the change to Danish legislation on unemployment insurance, as a result of which all employed and self-employed workers in Denmark enjoy the same possibilities of membership of an unemployment insurance fund, provided that any self-employed activity constitutes the principal activity of the person concerned.

b) Amendment of section "D. SPAIN"

The amendment suggested covers the calculation of the average basis for contributions referred to in Article 47(1)(g) of Regulation (EEC) No 1408/71 and takes account of the judgment of the Court of Justice in Case C-251/94, Eduardo Lafuente Nieto. The new wording of paragraph 4(b) would make it possible to apply to the pension obtained (calculated on the basis of past contributions) all revalorisations carried out from the time at which the pension was calculated until the date from which entitlement to the pension begins (the effective date), including the year preceding the materialisation of the risk.

c) Amendment of section "E. FRANCE"

The intention is to add a reference to a family allowance designed to supplement the arrangements for parental child-rearing allowance and home child-care allowance with a view to reducing the cost of employing a child-minder at home.

d) Amendment of section "G. IRELAND"

The proposed amendment is intended to avoid adverse effects as a result of applying Articles 23(1) and 68(1) of Regulation No 1408/71 when calculating earnings for the granting of sickness and unemployment benefit.

e) Amendment of section "J. NETHERLANDS"

The proposed amendments are designed to take account of changes to Dutch legislation on surviving dependants and incapacity for work in respect of self-employed persons.

f) **Amendment of section “M. FINLAND”**

The intention is to add a new point to make it clear that the National Pensions Act is applied in accordance with Article 45(5) of Regulation No 1408/71.

## **Article 2**

### *Amendments to Regulation (EEC) No 574/72*

Articles 29, 30, 31, 93 and 95 have to be amended as a result of the amending of Article 95 of Regulation (EEC) No 574/72 by Regulation No 3095/95, which replaces lump-sum reimbursement per family by lump-sum reimbursement per person.

1. Amendment of Article 29(1), (2) and (5)

The intention is to stipulate that this Article refers to pensioners and members of their families who are resident in the same Member State.

2. Amendment of Article 30 (heading and paragraphs 1, 3 and 5)

a) Amendment of the heading

The aim is to make it clear in the heading that the formalities provided for do not apply if the members of the family reside in the competent Member State.

b) Amendment of paragraph 1

The intention of the proposal is to stipulate that it is the competent institution which will issue the certified statement, to be produced by family members when registering with the institution of their place of residence, testifying that the pensioner is entitled to benefits in kind for himself and for the members of his family. The text is also brought into line with Article 29(2) of the same Regulation.

c) Amendment of paragraph 3

The intention of the proposal is to stipulate that it is now the competent institution (instead of the institution of the pensioner's place of residence) which provides information on the suspension or withdrawal of the pension or on entitlement to benefits in kind.

It is no longer necessary, in this case, to supply information on “any transfer of residence of the pensioner”.

d) Addition of a new paragraph 5

The proposed text is taken from Article 29(3) of the same Regulation.

3. Amendment of Article 31(3)

Article 31 lays down the formalities to be complied with in order for the pensioner and members of his family to be granted benefits in kind when staying in a Member State other than the one in which they are resident.

The proposal reflects the fact that, where members of the family reside in a Member State other than that in which the pensioner is resident, it is now the institution of their place of residence which is responsible for these formalities (instead of the institution of the pensioner's place of residence).

4. Amendment of Article 93(1) and (2)

The aim of the proposal is to discontinue the effective reimbursement of benefits in the case of Article 29(1), by deleting the reference to Article 93 of Regulation No 574/72.

5. Amendment of Article 95(1) and (3) (b)

It is necessary to stipulate that lump-sum reimbursement per person also applies in the case of Article 29(1) of Regulation No 1408/71; this is done by adding a reference to Article 95 of Regulation No 574/72.

6. Amendments to Annex 1

Annex 1 lists the competent authorities.

a) Amendment of section "F. GREECE"

The proposed amendment is necessary in order to take account of paragraphs 7 and 8 of section "F. GREECE" of Annex VI to Regulation (EEC) No 1408/71, concerning the application of Articles 22(1) (a) and (c), 22(2) (second paragraph), 22(3), 31(a) and 22(c) of Regulation (EEC) No 1408/71 to serving or retired public service employees (civilian or military), to persons treated as such, and to members of their families.

b) Amendment of section "K. AUSTRIA"

The proposed changes are a consequence of the renaming of the two Austrian ministries concerned.

7. Amendments to Annex 2

Annex 2 lists the competent institutions of each Member State.

a) Amendment of section "B. DENMARK"

The proposed changes to paragraphs 2(a) and 3(a) are the result of administrative changes in Denmark.

b) Amendment of section "F. GREECE"

The changes to paragraphs 1-6 are purely formal, whereas the proposed change to 1(d) is analogous to the proposed change to Annex 1.

c) Amendment of section "G. IRELAND"

The proposed change to paragraph 2(d) is the result of administrative reorganisation in Ireland, which means that the Department of Social Welfare, Longford, is now responsible for invalidity and maternity cash benefits.

d) Amendment of section "H. ITALY"

The proposed changes to paragraphs 1, 2, 3 and 4 are the result of administrative reorganisation in Italy, replacing the Maritime Funds by the "Social welfare institution in the maritime sector" and abolishing the "National welfare and assistance office for midwives", who are now covered by the "National social welfare institution".

e) Amendment of section "J. NETHERLANDS"

The changes to paragraphs 1 and 2 are the consequences of changes in the Dutch legislation on the organisation of social security, under which a national social security institution responsible for the professional and trade associations has been established.

f) Amendment of section "K. AUSTRIA"

The proposed amendment takes account of the new name of the special maternity allowance and the transfer of responsibility for this benefit from the "Labour market service" to the regional health insurance funds.

g) Amendment of section "M. FINLAND"

The proposed amendments are designed to take account of the repealing of the provisions on death grants in the National Pensions Act and to make specific reference to rehabilitation and the institution responsible for special non-contributory benefits.

8. Amendments to Annex 3

Annex 3 lists the institutions of the place of residence and the institutions of the place of stay.

a) Amendment of section "B. DENMARK"

The proposed amendments to subparagraphs (b) and (c) of Part I (institutions of the place of residence) are analogous to the changes to Annex 2 described above.



b) Amendment of section "G. IRELAND"

The proposed changes to paragraph 2(d) are analogous to the changes to Annex 2 described above.

c) Amendment of section "H. ITALY"

The proposed changes to paragraphs 1 and 3 are analogous to the changes to Annex 2 described above.

d) Amendment of section "J. NETHERLANDS"

The proposed changes to paragraphs 1 and 2 are analogous to the changes to Annex 2 described above.

e) Amendment of section "K. AUSTRIA"

The proposed changes to paragraphs 1 and 3 take account of the new legal situation in Austria, according to which the *Land* establishments are regarded as being competent for the granting of sickness and maternity benefits to persons insured in other countries. The proposed change to paragraph 5 is analogous to the change to Annex 2 described above.

f) Amendment of section "M. FINLAND"

The proposed change to paragraph 3 is analogous to the change to Annex 2 described above and also takes account of the change to the Accident Insurance Act. The proposed changes to paragraphs 1, 2, 4 and 5 also take account of the fact that the local offices of the social insurance institution serve as the institution of the place of residence and the institution of the place of stay.

9. Amendments to Annex 4

Annex 4 lists the liaison bodies.

a) Amendment of section "B. DENMARK"

The proposed changes to paragraphs 1(b), 2, 3 and 5 are analogous to the changes to Annex 2 described above.

b) Amendment of section "G. IRELAND"

The proposed changes to paragraph 2(c) are analogous to the changes to Annex 2 described above.

c) Amendment of section "J. NETHERLANDS"

The proposed change to paragraph 1(b) is analogous to the changes to Annex 2 described above.

d) Amendment of section "K. AUSTRIA"

The proposed change to paragraph 3 is analogous to the changes to Annexes 1 and 2 described above.

e) Amendment of section "M. FINLAND"

The proposed change to paragraph 1 is analogous to the change to Annex 2 described above.

10. Amendments to Annex 5

Annex 5 lists the implementing provisions of bilateral conventions which remain in force. There are several amendments to be made to this Annex.

The proposed changes to item 9 are the result of Belgium's termination of the agreement of 7 February 1964 on family and childbirth allowances.

The proposed amendment to item 77 is a consequence of the agreement between Italy and the Netherlands on the payment of advances, simplification of checks, and application of the principle of compensation to the payment of sums due in either direction on the basis of actual expenditure and flat-rate amounts.

The proposed change to item 87 takes account of the signing of an arrangement between Luxembourg and Sweden on the reciprocal waiving of the reimbursement of social security expenditure.

The agreement between the United Kingdom and Netherlands to begin forwarding statements of benefits paid in accordance with Article 69 of the Regulation means that item 93 must be amended.

The arrangement between the competent authorities of the United Kingdom and Sweden on waiving the costs of benefits in kind and of administrative checks and medical examinations makes it necessary to amend item 103.

11. Amendments to Annex 9

Annex 9 describes the methods of calculating the average annual cost of benefits in kind.

The proposed change to section "K. AUSTRIA" is analogous to the change to Annex 3 described above.

12. Amendments to Annex 10

Annex 10 lists the institutions and bodies designated by the competent authorities.

a) Amendment of section "B. DENMARK"

The proposed changes to paragraphs 1, 2, 3 and 7(b) are analogous to the changes to Annex 2 described above.

b) Amendment of section "F. GREECE"

The proposed change to paragraph 7(c) is analogous to the change to Annex 1 described above.

c) Amendment of section "H. ITALY"

The proposed change to paragraph 3 is analogous to the change to paragraph 3 of Annex 2.

d) Amendment of section "I. LUXEMBOURG"

The proposed change to paragraph 3 is the consequence of the new division of responsibilities in this area as decided by the Luxembourg authorities.

e) Amendment of section "J. NETHERLANDS"

The proposed changes to paragraphs 3 and 4 are analogous to the changes to Annex 2 described above.

f) Amendment of section "K. AUSTRIA"

The proposed changes to paragraphs 1-3 are to correct the wording. The amendment to paragraph 1 also incorporates changes in the names of the ministries concerned, and the amendment to paragraph 2 takes account of the situation of persons covered only by accident insurance, who must henceforth also be declared to the health insurance institution. The change to paragraph 6 is analogous to the change to Annex 2 described above.

g) Amendment of section "M. FINLAND"

The proposed change to paragraph 6 is analogous to the change to Annex 3 described above.

### **III. JUSTIFICATION FOR THE PROPOSAL FOR A REGULATION WITH REGARD TO THE PRINCIPLE OF SUBSIDIARITY**

This proposal for a Council Regulation conforms to the principle of subsidiarity as regards the two underlying criteria, namely necessity and proportionality, as specified in Article 3b of the European Community Treaty.

On the one hand, Article 51 requires the Council to adopt such measures in the field of social security as are necessary to provide freedom of movement for workers within the Community. The coordination of national social security schemes therefore falls exclusively within the competence of the Community. On the other hand, a binding legislative instrument, in the form of a regulation, is clearly proportionate to the objective pursued, i.e. ensuring effective freedom of movement. This is why the Council has

chosen such an instrument as being the most appropriate means of achieving this objective.

#### **IV. APPLICATION IN THE COUNTRIES OF THE EUROPEAN ECONOMIC AREA**

Freedom of movement for persons is one of the objectives and principles of the Agreement on the European Economic Area (EEA), which entered into force on 1 January 1994<sup>2</sup>. In Chapter 1 of Part III on free movement of persons, services and capital, Articles 28, 29 and 30 are devoted to free movement of workers and self-employed persons. Article 29 more specifically reiterates the principles set out in Article 51 of the EC Treaty relating to social security for persons moving within the Community. Consequently, this proposal for a Regulation, if adopted, must be applied to the member countries of the EEA.

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<sup>2</sup> OJ No L 1 of 3 January 1994, as amended by Decision of the EEA Joint Committee No 7/94 of 21 March 1994 (OJ No L 160 of 28 June 1994).

**Proposal for a**  
**COUNCIL REGULATION (EC)**  
**amending Regulation (EEC) No 1408/71**  
**on the application of social security schemes**  
**to employed persons, to self-employed persons**  
**and to their families moving with the Community and**  
**Regulation (EEC) No 574/72 laying down the procedure**  
**for implementing Regulation (EEC) No 1408/71**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission<sup>3</sup>, presented after consulting the Administrative Commission on Social Security for Migrant Workers,

Having regard to the Opinion of the European Parliament<sup>4</sup>,

Having regard to the Opinion of the Economic and Social Committee<sup>5</sup>,

Whereas it is appropriate to make certain amendments to Council Regulations (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed and to members of their families moving within the Community<sup>6</sup> and No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EC) 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<sup>7</sup>; whereas these amendments are linked to changes which Member States have made to their social security legislation;

Whereas it is necessary to amend Articles 29 and 31 of Regulation (EEC) No 1408/71 and Articles 29, 30, 31, 93 and 95 of Regulation (EEC) No 574/72 following the amending of Article 95 of Regulation (EEC) No 574/72 by Regulation No 3095/95,

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<sup>6</sup> OJ No L 149, 5.7.1997, p. 2. Regulation as last amended and updated by Regulation (EC) No 118/97 (OJ No L 28, 30.1.1997).

<sup>7</sup> OJ No L 74, 27.3.1972, p. 1. Regulation as last amended and updated by Regulation (EC) No 118/97 (OJ No L 28, 30.1.1997).

which replaces lump-sum reimbursement per family by lump-sum reimbursement per person;

Whereas it is necessary to amend paragraphs 1 and 2 of section "G. IRELAND" of Annex I, Part I, to take account of changes to Irish social security and social services legislation;

Whereas changes to Austrian legislation make it necessary to delete the reference to the childbirth allowance in section "K. AUSTRIA" in Part II of Annex II to Regulation (EEC) No 1408/71;

Whereas it would be appropriate to adapt sections "G. IRELAND", "H. ITALY", "J. NETHERLANDS" and "M. FINLAND" of Annex IIa to take account of changes in Irish, Italian, Dutch and Finnish legislation;

Whereas changes to Irish and Dutch legislation make it necessary to amend the references to legislation in Annex IV, section "G. IRELAND" of Part A, section "J. NETHERLANDS", subparagraph (b), of Part A, and paragraph 1(f) of Part D;

Whereas it is necessary to delete paragraph 1 of section "B. DENMARK" of Annex VI to take account of the amending of Danish unemployment insurance legislation;

Whereas it is necessary, pursuant to the case law of the Court of Justice (in particularly its judgment in Case C-251/94 Lafuente Nieto), to adapt paragraph 4(b) of section "D. SPAIN" of Annex VI, in line with internal provisions, where the basic pension amount is calculated on the basis of past contributions;

Whereas it is necessary to complete paragraph 7 of section "E. FRANCE" of Annex VI by a reference to the family allowance for the employment of a registered child-minder;

Whereas it is necessary to amend paragraph 5 of section "G. IRELAND" of Annex VI to take account of the method of calculating remuneration for the granting of sickness and unemployment benefits;

Whereas changes to Dutch legislation relating to survivors and incapacity for work in respect of self-employed workers make it necessary to adapt section "J. NETHERLANDS" of Annex VI to Regulation (EEC) No 1408/71;

Whereas it is necessary to clarify the application of Finnish legislation on the national pension; whereas a new paragraph 4 must be added to section "M. FINLAND" of Annex VI;

Whereas administrative reorganisations in Denmark, Greece, Ireland, Italy, Luxembourg, the Netherlands, Austria and Finland make it necessary to adapt sections "B. DENMARK" of Annexes 2, 3, 4 and 10, "F. GREECE" of Annexes 1, 2 and 10, "G. IRELAND" of Annexes 2, 3 and 4, "H. ITALY" of Annexes 2, 3 and 10, "I. LUXEMBOURG" of Annex 10, "J. NETHERLANDS" of Annexes 2, 3, 4 and 10, "K. AUSTRIA" of Annexes 1, 2, 3, 4 and 10, and "M. FINLAND" of Annexes 2, 3, 4 and 10 of Regulation (EEC) No 574/72;

Whereas it is necessary to adapt items “9. BELGIUM–NETHERLANDS”, “77. ITALY–NETHERLANDS”, “87. LUXEMBOURG–SWEDEN”, “93. NETHERLANDS–UNITED KINGDOM” and 103. “SWEDEN–UNITED KINGDOM” of Annex 5 to Regulation (EEC) No 574/72;

Whereas it is necessary to amend section “K. AUSTRIA” of Annex 9 to Regulation (EEC) No 574/72 to take account of the amending of Austrian legislation on sickness and maternity benefits;

Whereas, in order to attain the objective of free movement for workers in the field of social security, it is necessary and appropriate to amend the rules relating to the coordination of national social security schemes through a Community legal instrument that is binding and directly applicable in each Member State;

Whereas this is consistent with the provisions of the third paragraph of Article 3b of the Treaty,

HAS ADOPTED THIS REGULATION:

#### Article 1

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

1. Article 29(1)(a) is replaced by the following:

*“a) Benefits in kind shall be provided by the institution of the place of residence of the members of the family in accordance with the provisions of the legislation which that institution administers, the cost being borne by the institution determined in accordance with the provisions of Article 27 or Article 28(2): if the place of residence is situated in the competent Member State, benefits in kind shall be provided, and the cost borne, by the competent institution.”*

2. Article 31 is amended as follows:

*In paragraph (a), the words “the institution of the pensioner’s place of residence” shall be replaced by “the institution of the place of residence of the pensioner or the members of his family;”*

3. In Annex I, Part I, section “G. IRELAND”:

- i) In paragraph 1, the words “Section 5 and 37 of the Social Welfare (Consolidation) Act 1981” are replaced by “*Sections 9, 21 and 49 of the Social Welfare (Consolidation) Act 1993*”;
- ii) In paragraph 2, the words “Section 17A of the Social Welfare (Consolidation) Act 1981” are replaced by “*Sections 17 and 21 of the Social Welfare (Consolidation) Act 1993*”.

4. In Annex II, Part II, section “K. AUSTRIA” is replaced as follows:

*"K. AUSTRIA*

*None".*

5. Annex IIa is amended as follows:

- a) In section "G. IRELAND", subparagraphs (a) to (g) are replaced as follows:

*"(a) Unemployment assistance [Social Welfare (Consolidation) Act 1993, Part III, Chapter 2].*

*(b) Old age and blind pensions (non-contributory) [Social Welfare (Consolidation) Act 1993, Part III, Chapters 4 and 5].*

*(c) Widow's and orphans' pensions (non-contributory) [Social Welfare (Consolidation) Act 1993, Part III, Chapter 6].*

*(d) One-parent family payment (Social Welfare Act 1993, Part III, Chapter 9).*

*(e) Carer's allowance (Social Welfare Act 1993, Part III, Chapter 10).*

*(f) Family income supplement (Social Welfare Act 1993, Part V).*

*(g) Disability allowance (Social Welfare Act 1996, Part IV)".*

- b) The following is added to section "H. ITALY", subparagraph (h):

*"(h) Social allowance (Law No 335 of 8 August 1995)".*

- c) In section "J. NETHERLANDS", the word "None" is replaced as follows:

*"Law on incapacity benefits for disabled young people (Law of 24 April 1997)".*

- d) In section "M. FINLAND", sub-paragraph (d) is replaced as follows

*"(d) Labour market support (Labour Market Support Act 1542/93)".*

6. Annex IV is amended as follows:

- a) In part A, the text of section "G. IRELAND" is replaced as follows:

*"Part II, Chapter 15, of the Social Welfare (Consolidation) Act 1993)".*

- b) In part A, subparagraph (b) of section "J. NETHERLANDS" is replaced as follows:



*“Law of 24 April 1997 on work by self-employed persons (WAZ), as amended”.*

- c) In part D, paragraph 1(f) of section “J. NETHERLANDS” is replaced as follows:

*“(f) The Netherlands widow’s’ pension under the Law of 1 July 1996 on general insurance for surviving dependants”.*

7. Annex VI is amended as follows:

- a) In section “B. DENMARK”, paragraph 1 is deleted.

- b) In section “D. SPAIN”, paragraph 4(b) is reworded as follows:

*“b) The amount of the pension obtained shall be increased by the amount of the increases and revalorisations calculated for each previous year, for pensions of the same nature”.*

- c) Paragraph 7 of section “E. FRANCE” is reworded as follows:

*“7. Notwithstanding Articles 73 and 74 of the Regulation, the housing allowances, the home child-care allowance, the family allowance for the employment of a registered child-minder and the parental child-rearing allowance shall be granted only to persons concerned and to members of their families residing in French territory”.*

- d) Paragraph 5 of section “G. IRELAND” is replaced as follows:

*“5. For the purpose of calculating the earnings for the granting of sickness benefit or unemployment benefit under Irish legislation, an amount equal to the average weekly wage in that year of male and female employed persons, as applicable, shall, notwithstanding Articles 23(1) and 68(1) of the Regulation, be credited to the employed person in respect of each week of employment completed as an employed person under the legislation of another Member State during the prescribed period”.*

- e) In section “J. NETHERLANDS”:

1. The first paragraph of 2(f) is reworded as follows:

*“(f) By way of derogation from the provisions of Article 45(1) of the law on general old-age insurance (AOW) and Article 63(1) of the general law on insurance for surviving dependants (ANW), the spouse of an employed person or of a self-employed person covered by a compulsory insurance scheme, residing in a Member State other than the Netherlands, shall be authorised to take out voluntary insurance under that legislation, but only for the periods after 2 August 1989 during which the employed person or self-employed person is or was compulsorily insured under the above mentioned legislation. This authorisation ceases on the date of*

*termination of the compulsory insurance of the employed person or self-employed person”.*

2. In section 3:

i) Sub-paragraph (a) is reworded as follows:

*“(a) Any employed person of self-employed person who is no longer subject to Dutch legislation on general insurance for surviving dependants shall be deemed to be insured under such legislation when the risk materialises, for the purposes of the implementation of the provisions of Chapter III of Title III of the Regulation, if that person is insured under the legislation of another Member State for the same risk or, failing that, in the case where a survivor’s benefit is due in pursuance of the legislation of another Member State. The latter condition shall be deemed to have been fulfilled, however, in the case referred to in Article 48(1)”.*

ii) The first paragraph of (b) is reworded as follows:

*“(b) Where, pursuant to sub-paragraph (a), a widow has the right to a widow’s pension under Dutch legislation on general insurance for surviving dependants, that pension shall be calculated in accordance with Article 46(2) of the Regulation”.*

iii) Sub-paragraph (d) is reworded as follows:

*“(d) For the purposes of Article 46(2) of the Regulation, only periods of insurance completed after the age of 15 years under Dutch legislation shall be taken into account as periods of insurance”.*

3. Paragraph 4:

i) The following heading is added: *“Application of the law on incapacity insurance and of the law on work by self-employed persons”.*

ii) In sub-paragraph (a), the following is added after “Law of 11 December 1975 relating to incapacity for work (AAW)”: *“Law of 24 April 1997 on work by self-employed persons”.*

iii) In sub-paragraph (b)(ii), the words “Law of 11 December 1975 (AAW)” are replaced by: *“Law of 24 April 1997 on work by self-employed persons”.*

- iv) In the first paragraph of (c), the words “abovementioned law of 11 December 1975 (AWW)” are replaced by: “*Law of 24 April 1997 on work by self-employed persons*”.
- v) In the third indent of subparagraph (c), the following is added after “abovementioned Law of 11 December 1975 (AAW)”: “*Law of 24 April 1997 on work by self-employed persons*”.
- 4. In section 6, the words “general insurance for widows and orphans” are replaced by “*general insurance for surviving dependants*”.
- f) The following new paragraph 4 is added to section “M. FINLAND”:
 

*“4. An employed or self-employed person who is no longer insured under the National Pensions Act is regarded, in accordance with the provisions of Title III, Chapter 3 of this Regulation, as having the status of an insured person under the above-mentioned Act if, at the time of retirement, he or she was insured under the legislation of another Member State or, if this was not the case, he or she is entitled, in respect of the same risk, to a pension under the legislation of another Member State. The latter requirement is, however, covered by Article 48 (1)”.*

## Article 2

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

- 1. Article 29 is amended as follows:
  - a) In paragraph 1, the words “residing in the same Member State” are added after “a pensioner and the members of his family”.
  - b) In paragraphs 2 and 5, the words “residing in the same Member State” are added after “members of his family”.
- 2. Article 30 is amended as follows:
  - a) In the heading, the words “outside the competent Member State” are added after “who are resident”.
  - b) Paragraph 1 is amended as follows:
    - The second sentence is replaced by the following:
 

*“This certified statement, which shall be issued by the institution or by one of the institutions responsible for paying the pension, or, where applicable, the institution empowered to decide on entitlement to benefits in kind, shall remain valid as long as the institution of the place of residence of the members of the family has not been notified of its cancellation”.*

– The following sentence is added after the second sentence:

*“If the members of the family do not present a certified statement, the institution of the place of residence shall, in order to obtain it, contact the institution or institutions responsible for paying the pension or, where applicable, the institution empowered to do so”.*

c) Paragraph 3 is replaced by the following text;

*“3. The institution which has issued the certified statement referred to in paragraph 1 shall inform the institution of the place of residence of the members of the family of the suspension or withdrawal of the pension. The institution of the place of residence of the members of the family may, at any time, request the institution which has issued the certified statement to supply it with any information related to entitlement to benefits in kind”.*

d) The following paragraph is added after paragraph 4:

*“5. The institution of the place of residence shall inform the institution which issued the statement referred to in paragraph 1 of any registration it has carried out, in accordance with the provisions of that paragraph”.*

3. Article 31 is amended as follows:

*The following sentence is added at the end of paragraph 3:*

*“If the latter reside in the territory of a Member State other than that of the pensioner, the certified statement provided for in paragraph 1 shall be issued by the institution of their place of residence, which, for the purposes of paragraph 2, shall be considered to be the competent institution”.*

4. Article 93 is amended as follows:

*In paragraphs 1 and 2, the words “Article 29(1)” are deleted.*

5. Article 95 is amended as follows:

a) *In paragraph 1, the words “Article 29(1)” are added after “Articles 28(1) and 28(a)”.*

b) *In paragraph 3(b), the words “pensioners and members of their family referred to in Article 28(2)” are replaced by “pensioners, and/or members of their family, referred to in Article 28(2) or Article 29(1)”.*

6. Annex 1 is amended as follows:

a) The following paragraph 4 is added to section “F. GREECE”:

*“4. Υπουργός Εθνικής Αμύνης, Αθήνα (Ministry of National Defence, Athens)”.*

*AG*

b) Section “K. AUSTRIA” is replaced as follows:

“K. AUSTRIA

1. *Bundesminister für Arbeit, Gesundheit und Soziales (Federal Minister for Labour, Health and Social Affairs), Wien.*
2. *Bundesminister für Umwelt, Jugend und Familie (Federal Minister for the Environment, Youth and the Family), Wien”.*

7. Annex 2 is amended as follows:

a) In section “B. DENMARK”, paragraphs 2(a) and 3(a), the words “Direktoratet for Social Sikring og Bistand (National Office for Social Security and Welfare), København” in the right-hand column are replaced by “*Den Sociale Sikringsstyrelse (Social Security Administration); København*”.

b) In section “F. GREECE”:

i) In items 1-6, subparagraphs (i), (ii) and (iii) are renumbered (a), (b) and (c) respectively.

ii) The following subparagraph (d) is inserted into item 1:

“(d) *For public service employees:*

*i) civil servants:* *Υπουργείο Υγείας και Πρόνοιας, Αθήνα (Ministry of Health and Welfare, Athens).*

*ii) local government employees:* *Ταμείο Υγείας Δημοτικών και Κοινοτικών Υπαλλήλων ΤΥΔΚΥ, Αθήνα, (Health Fund for Employees of Municipalities and Communities, TYDKY, Athens).*

*iii) military personnel on active service:* *Υπουργείο Εθνικής Αμύνης, Αθήνα (Ministry of National Defence, Athens).*

*iv) military personnel on active service in the Harbour Guard:* *Υπουργείο Εμπορικής Ναυτιλίας, (Ministry of the Merchant Navy, Piraeus)”*

c) In paragraph 2 of section “G. IRELAND”:

i) The following new subparagraph (d) is inserted:

*“(d) Invalidity benefits and maternity benefits:  
Department of Social Welfare, Longford”.*

ii) The present subparagraph (d) becomes subparagraph (e).

d) In section “H. ITALY”:

i) In paragraph 1.A, subparagraphs (b)(ii) and (c)(ii), the words “*Cassa maritima (Maritime Fund)*” in the right-hand column are replaced by:

*“IPSEMA (Istituto di previdenza del settore marittimo – Social Welfare Institution in the maritime sector)”.*

ii) In paragraph 2.A, subparagraphs (b)(ii) and (c)(ii), the words “*Cassa maritima (Maritime Fund)*” in the right-hand column are replaced by:

*“IPSEMA (Istituto di previdenza del settore marittimo – Social Welfare Institution in the maritime sector)”.*

iii) In paragraph 3.B, subparagraph (d) is deleted.

iv) In paragraph 4, the words “*Cassa maritima (Maritime Fund)*” in the right-hand column are replaced by:

*“IPSEMA (Istituto di previdenza del settore marittimo – Social Welfare Institution in the maritime sector)”.*

e) In section “J. NETHERLANDS”:

i) In paragraphs 1(b), 2(a)(i) and 4, the words “Bedrijfsvereniging (Professional and Trade Association) with which the insured person’s employer is insured” are replaced by: “*Landelijk Instituut Sociale Verzekeringen (National Social Security Institution) via the agency with which the insured person’s employer is registered*”;

ii) In paragraph 2(a)(ii), the words “Bedrijfsvereniging (Professional and Trade Association) with which the insured persons would be insured if he had personnel in his employ” are replaced by: “*Landelijk Instituut Sociale Verzekeringen (National Social Security Institution) via the agency with which the insured person would be registered if he had personnel in this employ*”;

iii) In paragraphs 2(b) and 6(b), the words “Nieuwe Algemene Bedrijfsvereniging (New General Professional and Trade Association), Amsterdam” are replaced by: “*Landelijk Instituut Sociale Verzekeringen (National Social Security Institution) via GAK Nederland bv, Amsterdam*”;

- f) In section “K. AUSTRIA”, paragraph 4 is replaced as follows:
- “4 *Family benefits:*
- a) *Family benefits with the exception of Kareuzgeld (parental leave allowance): Finanzamt (Tax Office);*
- b) *Kareuzgeld parental leave allowance); Gebietskrankenkasse (Regional Health Insurance Fund) responsible for the place of residence or place of stay of the person concerned”.*
- g) In section “M. FINLAND”:
- i) In paragraph 1(b), a new subparagraph (ii) is added, as follows:
- ii) *social insurance institution rehabilitation:  
Kansaneläkelaitos/Folkpensionsanstalten (Social Insurance Institution), Helsinki”.*
- ii) The present paragraph 1(b) (ii) thus becomes 1(b)(iii).
- iii) Paragraph 4 is deleted.
- iv) In paragraph 5(a), the text in the right-hand column, “Kansaneläkelaitos/Folkpensionsanstalten (Social Insurance Institution), Helsinki, or”, is replaced by:  
“Ahvenanmaan maakunnan työvoimatoimikunta/Arbetskraftskommissionen i landskapet Åland (Employment Commission in the Province of Åland) or”.
- v) A new paragraph 7 is added, as follows:
- “7. *Special non-contributory benefits:  
Kansaneläkelaitos/Folkpensionsanstalten (Social Insurance Institution), Helsinki”.*

8. Annex 3 is amended as follows:

- a) In section “B. DENMARK”, part I INSTITUTIONS OF THE PLACE OF RESIDENCE, subparagraphs (b) and (c), the words “Direktoratet for Social Sikring og Bistand, (National Office for Social Security and Welfare), København in the right-hand column are replaced by:  
“Den Sociale Sikringsstyrelse (Social Security Department), København”.
- b) In paragraph 2 of section “G. IRELAND”:
- i) A new sub-paragraph (d) is inserted as follows:  
“(d) *Invalidity benefits and maternity benefits:  
Department of Social Welfare, Longford”.*

- ii) The present subparagraph (d) becomes subparagraph (e).
- c) In section “H. ITALY”:  
  - i) In paragraph 1.A, subparagraph (b)(ii), the words “Cassa marittima (Maritime Fund) in the right-hand column are replaced by:  

*“IPSEMA (Istituto di previdenza del settore marittimo - Social Welfare Institution in the maritime sector)”*.
  - ii) In paragraph 3.B, subparagraph (d) is deleted.
- d) In section “J. NETHERLANDS”:  
  - i) In paragraphs 1(b), 2(b) and 4, the words “Nieuwe Algemene Bedrijfsvereniging (New General Professional and Trade Association), Amsterdam” in the right-hand column are replaced by:  

*“Landelijk Instituut Sociale Verzekeringen (National Social Security Institution) via GAK Netherlands bv, Amsterdam”*.
  - ii) In paragraph 2(a) the words “Bedrijfsvereniging (Professional and Trade Association)” in the right-hand column are replaced by:  

*“Landelijk Instituut Sociale Verzekeringen (National Social Security Institution) via GAK Netherlands bv, Amsterdam”*.
- e) In section “K. AUSTRIA”:  
  - i) In paragraph 1(a), the text of the right-hand column is replaced by the following:  

*“Gebietskrankenkasse (Regional Health Insurance Fund) competent for the place of residence or place of stay of the person concerned or, in the event of treatment at a hospital or clinic for which a Landesfonds (“Land” fund) is responsible, the Landesfonds competent for the place of residence or place of stay of the person concerned”*.
  - ii) In paragraph 3(a), the text of the right-hand column is replaced by:  

*“Gebietskrankenkasse (Regional Health Insurance Fund) competent for the place of residence or place of stay of the person concerned or, in the event of treatment at a hospital or clinic for which a Landesfonds (“Land” fund) is responsible, the Landesfonds competent for the place of residence or place of stay of the person concerned or the Allgemeine Unfallversicherungsanstalt (General Accident Insurance Institution), Wien, which may also grant benefits”*.



iii) Paragraph 5 is replaced as follows:

*“5. Family benefits*

a) *Family benefits with the exception of Karengeld (parental leave allowance): Finanzamt (Tax Office) competent for the place of residence or place of stay of the person concerned.*

b) *Karengeld (parental leave allowance): Gebietskrankenkasse (Regional Health Insurance Fund) competent for the place of residence or place of stay or the person concerned”.*

f) In section “M. FINLAND”:

i) Paragraph 1(b)(ii) is replaced as follows:

*“ii) Health insurance reimbursements and social insurance institution rehabilitation:  
Kansaneläkelaitos/Folkpensionsanstalten (Social Insurance Institution)”.*

ii) Paragraph 3 is replaced as follows:

*“3. Industrial accidents and occupational diseases:  
Tapaturmavakuutuslaitosten  
liitto/Olycksfallsförsäkringsanstalternas förbund  
(Federation of Accident Insurance Institutions), Helsinki”.*

iii) In paragraphs 1(a), 2(a), 4(a) and (b)(i), and 5, the word “Helsinki” in the right-hand column after the name of the institution is deleted.

9. Annex 4 is amended as follows:

a) In section “B. DENMARK”, paragraphs 1(b), 2, 3 and 5, the words “Direktoratet for Social Sikring og Bistand (National Office for Social Security and Welfare), København” in the right-hand column are replaced by:

*“Den Sociale Sikringsstyrelse (Social Security Directorate), København”.*

b) In paragraph 2 of section “G. IRELAND”:

i) The following new subparagraph (c) is inserted:

*“(d) Invalidity benefits and maternity benefits:  
Department of Social Welfare, Longford”.*

ii) The present sub-paragraph (c) becomes subparagraph (d).

- c) In section “J. NETHERLANDS”, paragraph 1(b), the words “Algemene Bedrijfsvereniging (New General Professional and Trade Association), Amsterdam” in the right-hand column are replaced as follows:

*“Landelijk Instituut Sociale Verzekeringen (National Social Security Institution) via GAK Nederland bv, Amsterdam”.*

- d) In section “K. AUSTRIA”, paragraph 3 is replaced as follows:

*“3. Family benefits*

*a) Family benefits with the exception Karenzgeld (parental leave allowance): Bundesministerium für Umwelt, Jugend und Familie (Federal Ministry of the Environment, Youth and the Family), Wien.*

*b) Karenzgeld (parental leave allowance): Bundesministerium für Arbeit, Gesundheit und Soziales (Federal Ministry of Labour, Health and Social Affairs), section III, Wien”.*

- e) In section “M. FINLAND”, paragraph 1, the words “death grants” in the left-hand column are deleted.

10. Annex 5 is amended as follows:

- a) In section “9. BELGIUM-NETHERLANDS”, sub-paragraph (a) is deleted, and sub-paragraphs (b), (c), and (d) become sub-paragraphs (a), (b) and (c) respectively.

- b) In section “77. ITALY-NETHERLANDS”, the following sub-paragraph (c) is added:

*“(c) the Agreement of 24 December 1996/27 February 1997 on Article 36(3) and Article 63(3) of the Regulation”.*

- c) In section “87. LUXEMBOURG-SWEDEN”, the word “None” is replaced by:

*“Arrangement of 27 November 1996 on the reimbursement of expenditure in the field of social security”.*

- d) In section “93. NETHERLANDS-UNITED KINGDOM”, sub-paragraphs (b) and (c) are deleted, and sub-paragraph (d) becomes sub-paragraph (b).

- e) In section “103. SWEDEN-UNITED KINGDOM”, the word “None” is replaced by:

*“The arrangement of 15 April 1997 concerning Article 36(3) and Article 63(3) of the Regulation (reimbursement or waiving of reimbursement of the cost of benefits in kind) and Article 105(2) of the implementing*

*Regulation (waiving of refunds of the costs of administrative checks and medical examinations)”.*

11. In Annex 9, section “K. AUSTRIA” is replaced by the following:

*“The average annual cost of benefits in kind shall be calculated by taking into consideration the benefits provided by the Gebietskrankenkassen (Regional Health Insurance Funds) and the Landesfonds (bodies responsible for hospital treatment at “Land” level)”.*

12. Annex 10 is amended as follows:

- a) In section “B. DENMARK”, paragraphs 1, 2, 3 and 7(b), the words “Direktoratet for Social Sikring og Bistand (National Office for Social Security and Welfare), København” in the right-hand column are replaced by:

*“Den Sociale Sikringsstyrelse (Social Security Directorate), København”.*

- b) In section “F. GREECE”, paragraph 7(c) is replaced as follows:

- “c) *Other benefits:*

*i) for the employed, self-employed and local government employees:*

*Ίδρυμα Κοινωνικών Ασφαλίσεων  
Social Insurance Institute, Athens).*

*ii) for civil servants:*

*Υπουργείο Υγείας και  
Πρόνοιας, Αθήνα  
(Ministry of Health and Welfare,  
Athens).*

*iii) for military personnel  
on active service:*

*Υπουργείο Εθνικής Αμύνης,  
Αθήνα (Ministry of National  
Defence, Athens).*

*iv) for military personnel on active  
service in the Harbour Guard:*

*Υπουργείο Εμπορικής Ναυτιλίας,  
Πειραιάς (Ministry of the  
Merchant Navy, Piraeus).*

- c) In section “H. ITALY”, paragraph 3 is deleted.

- d) In paragraph 3 of section “I. LUXEMBOURG”, the words “*Inspection générale de la sécurité sociale (General Inspectorate for Social Security), Luxembourg*” in the right-hand column are replaced by:

*“Centre commun de la sécurité sociale (Joint Social Security Centre), Luxembourg”.*

- e) In section “J. NETHERLANDS”:

- i) In paragraph 3, the words ““Algemene Bedrijfsvereniging (New General Professional and Trade Association), Amsterdam” in the right-hand column are replaced as follows:
- “Landelijk Instituut Sociale Verzekeringen (National Social Security Institution) via GAK Nederland bv, Amsterdam”.*
- ii) In paragraph 4(b), the words “Algemeen Werkloosheidsfonds (General Unemployment Fund), Zoetermeer”, in the right-hand column, are replaced by:
- “Landelijk Instituut Sociale Verzekeringen (National Social Security Institution) via GAK Nederland bv, Amsterdam”.*
- f) In section “K. AUSTRIA”:
- i) Paragraphs 1-3 are replaced by;
- “1. *For the purpose of applying Articles 14 (1) (b) and 17 of the Regulation:*  
*Bundesminister für Arbeit, Gesundheit und Soziales (Federal Minister for Labour, Health and Social Affairs), Wien, in agreement with the Bundesminister für Umwelt, Jugend und Familie (Federal Minister for the Environment, Youth and the Family), Wien.*
2. *For the purpose of applying Articles 11, 11a, 12a, 13 and 14 of the implementing Regulation:*
- a) *When the person concerned is subject to Austrian legislation:*  
*the competent sickness insurance scheme;*
- b) *In all other cases:*  
*Hauptverband der österreichischen Versicherungsträger (Central Association of Austrian Social Insurance Institutions), Wien.*
3. *For the application of Article 14d(3) of the Regulation:*  
*“ competent institution”.*
- ii) Paragraph 6 is replaced by:
- “6. *For the purpose of applying Article 85 (2) and 86 (2) of the implementing Regulation in relation to Karenzgeld (parental leave allowance):*  
*Gebietskrankenkasse (Regional Health Insurance Fund) competent for the last place of residence or stay of the person concerned”.*

- g) In paragraph 6 of section "M. FINLAND", the words "*the institution of the place of residence or stay, the insurance institution designated by*" in the right-hand column are deleted.

### Article 3

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

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

Done at Brussels,

For the Council

The President





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