

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

[<sup>X1</sup>TITLE I

**GENERAL PROVISIONS**

*Article 1*

**Definitions**

For the purposes of this Regulation:

- (a) ‘activity as an employed person’ means any activity or equivalent situation treated as such for the purposes of the social security legislation of the Member State in which such activity or equivalent situation exists;
- (b) ‘activity as a self-employed person’ means any activity or equivalent situation treated as such for the purposes of the social security legislation of the Member State in which such activity or equivalent situation exists;
- (c) ‘insured person’, in relation to the social security branches covered by Title III, Chapters 1 and 3, means any person satisfying the conditions required under the legislation of the Member State competent under Title II to have the right to benefits, taking into account the provisions of this Regulation;
- (d) ‘civil servant’ means a person considered to be such or treated as such by the Member State to which the administration employing him/her is subject;
- (e) ‘special scheme for civil servants’ means any social security scheme which is different from the general social security scheme applicable to employed persons in the Member State concerned and to which all, or certain categories of, civil servants are directly subject;
- (f) ‘frontier worker’ means any person pursuing an activity as an employed or self-employed person in a Member State and who resides in another Member State to which he/she returns as a rule daily or at least once a week;
- (g) ‘refugee’ shall have the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951;
- (h) ‘stateless person’ shall have the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954;
- (i) ‘member of the family’ means:
  - 1. (i) any person defined or recognised as a member of the family or designated as a member of the household by the legislation under which benefits are provided;
  - (ii) with regard to benefits in kind pursuant to Title III, Chapter 1 on sickness, maternity and equivalent paternity benefits, any person

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defined or recognised as a member of the family or designated as a member of the household by the legislation of the Member State in which he/she resides;

2. if the legislation of a Member State which is applicable under subparagraph 1 does not make a distinction between the members of the family and other persons to whom it is applicable, the spouse, minor children, and dependent children who have reached the age of majority shall be considered members of the family;
3. if, under the legislation which is applicable under subparagraphs 1 and 2, a person is considered a member of the family or member of the household only if he/she lives in the same household as the insured person or pensioner, this condition shall be considered satisfied if the person in question is mainly dependent on the insured person or pensioner;

- (j) ‘residence’ means the place where a person habitually resides;
- (k) ‘stay’ means temporary residence;
- (l) ‘legislation’ means, in respect of each Member State, laws, regulations and other statutory provisions and all other implementing measures relating to the social security branches covered by Article 3(1);

This term excludes contractual provisions other than those which serve to implement an insurance obligation arising from the laws and regulations referred to in the preceding subparagraph or which have been the subject of a decision by the public authorities which makes them obligatory or extends their scope, provided that the Member State concerned makes a declaration to that effect, notified to the President of the European Parliament and the President of the Council of the European Union. Such declaration shall be published in the *Official Journal of the European Union*;

- (m) ‘competent authority’ means, in respect of each Member State, the Minister, Ministers or other equivalent authority responsible for social security schemes throughout or in any part of the Member State in question;
- (n) ‘Administrative Commission’ means the commission referred to in Article 71;
- (na) ‘<sup>F1</sup>European Labour Authority’ means the body established by Regulation (EU) 2019/1149 of the European Parliament and of the Council<sup>(1)</sup> and referred to in Article 74a;]
- (o) ‘Implementing Regulation’ means the Regulation referred to in Article 89;
- (p) ‘institution’ means, in respect of each Member State, the body or authority responsible for applying all or part of the legislation;
- (q) ‘competent institution’ means:
  - (i) the institution with which the person concerned is insured at the time of the application for benefit;
  - or
  - (ii) the institution from which the person concerned is or would be entitled to benefits if he/she or a member or members of his/her family resided in the Member State in which the institution is situated;

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- or
- (iii) the institution designated by the competent authority of the Member State concerned;
- or
- (iv) in the case of a scheme relating to an employer's obligations in respect of the benefits set out in Article 3(1), either the employer or the insurer involved or, in default thereof, the body or authority designated by the competent authority of the Member State concerned;
- (r) 'institution of the place of residence' and 'institution of the place of stay' mean respectively the institution which is competent to provide benefits in the place where the person concerned resides and the institution which is competent to provide benefits in the place where the person concerned is staying, in accordance with the legislation administered by that institution or, where no such institution exists, the institution designated by the competent authority of the Member State concerned;
- (s) 'competent Member State' means the Member State in which the competent institution is situated;
- (t) 'period of insurance' means periods of contribution, employment or self-employment as defined or recognised as periods of insurance by the legislation under which they were completed or considered as completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of insurance;
- (u) 'period of employment' or 'period of self-employment' mean periods so defined or recognised by the legislation under which they were completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of employment or to periods of self-employment;
- (v) 'period of residence' means periods so defined or recognised by the legislation under which they were completed or considered as completed;
- (va) [<sup>F2</sup>'Benefits in kind' means:
- (i) for the purposes of Title III, Chapter 1 (sickness, maternity and equivalent paternity benefits), benefits in kind provided for under the legislation of a Member State which are intended to supply, make available, pay directly or reimburse the cost of medical care and products and services ancillary to that care. This includes long-term care benefits in kind;
- (ii) for the purposes of Title III, Chapter 2 (accidents at work and occupational diseases), all benefits in kind relating to accidents at work and occupational diseases as defined in point (i) above and provided for under the Member States' accidents at work and occupational diseases schemes;]
- (w) 'pension' covers not only pensions but also lump-sum benefits which can be substituted for them and payments in the form of reimbursement of contributions and, subject to the provisions of Title III, revaluation increases or supplementary allowances;
- (x) 'pre-retirement benefit' means: all cash benefits, other than an unemployment benefit or an early old-age benefit, provided from a specified age to workers who have reduced, ceased or suspended their remunerative activities until the age at which they

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qualify for an old-age pension or an early retirement pension, the receipt of which is not conditional upon the person concerned being available to the employment services of the competent State; ‘early old-age benefit’ means a benefit provided before the normal pension entitlement age is reached and which either continues to be provided once the said age is reached or is replaced by another old-age benefit;

- (y) ‘death grant’ means any one-off payment in the event of death excluding the lump-sum benefits referred to in subparagraph w;
- (z) ‘family benefit’ means all benefits in kind or in cash intended to meet family expenses, excluding advances of maintenance payments and special childbirth and adoption allowances mentioned in Annex I.

#### **Textual Amendments**

- F1** Inserted by Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (Text with relevance for the EEA and for Switzerland).
- F2** Inserted by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes (Text with relevance for the EEA and for Switzerland).

### *Article 2*

#### **Persons covered**

1 This Regulation shall apply to nationals of a Member State, stateless persons and refugees residing in a Member State who are or have been subject to the legislation of one or more Member States, as well as to the members of their families and to their survivors.

2 It shall also apply to the survivors of persons who have been subject to the legislation of one or more Member States, irrespective of the nationality of such persons, where their survivors are nationals of a Member State or stateless persons or refugees residing in one of the Member States.

### *Article 3*

#### **Matters covered**

1 This Regulation shall apply to all legislation concerning the following branches of social security:

- a sickness benefits;
- b maternity and equivalent paternity benefits;
- c invalidity benefits;
- d old-age benefits;
- e survivors' benefits;
- f benefits in respect of accidents at work and occupational diseases;
- g death grants;
- h unemployment benefits;

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- i pre-retirement benefits;
- j family benefits.

2 Unless otherwise provided for in Annex XI, this Regulation shall apply to general and special social security schemes, whether contributory or non-contributory, and to schemes relating to the obligations of an employer or shipowner.

3 This Regulation shall also apply to the special non-contributory cash benefits covered by Article 70.

4 The provisions of Title III of this Regulation shall not, however, affect the legislative provisions of any Member State concerning a shipowner's obligations.

[<sup>F35</sup> This Regulation shall not apply to:

- a social and medical assistance or
- b benefits in relation to which a Member State assumes the liability for damages to persons and provides for compensation, such as those for victims of war and military action or their consequences; victims of crime, assassination or terrorist acts; victims of damage occasioned by agents of the Member State in the course of their duties; or victims who have suffered a disadvantage for political or religious reasons or for reasons of descent.]

#### Textual Amendments

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

### Article 4

#### Equality of treatment

Unless otherwise provided for by this Regulation, persons to whom this Regulation applies shall enjoy the same benefits and be subject to the same obligations under the legislation of any Member State as the nationals thereof.

### Article 5

#### Equal treatment of benefits, income, facts or events

Unless otherwise provided for by this Regulation and in the light of the special implementing provisions laid down, the following shall apply:

- (a) where, under the legislation of the competent Member State, the receipt of social security benefits and other income has certain legal effects, the relevant provisions of that legislation shall also apply to the receipt of equivalent benefits acquired under the legislation of another Member State or to income acquired in another Member State;
- (b) where, under the legislation of the competent Member State, legal effects are attributed to the occurrence of certain facts or events, that Member State shall take account of

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like facts or events occurring in any Member State as though they had taken place in its own territory.

#### *Article 6*

### **Aggregation of periods**

Unless otherwise provided for by this Regulation, the competent institution of a Member State whose legislation makes:

- the acquisition, retention, duration or recovery of the right to benefits,
  - the coverage by legislation,
- or
- the access to or the exemption from compulsory, optional continued or voluntary insurance,

conditional upon the completion of periods of insurance, employment, self-employment or residence shall, to the extent necessary, take into account periods of insurance, employment, self-employment or residence completed under the legislation of any other Member State as though they were periods completed under the legislation which it applies.

#### *Article 7*

### **Waiving of residence rules**

Unless otherwise provided for by this Regulation, cash benefits payable under the legislation of one or more Member States or under this Regulation shall not be subject to any reduction, amendment, suspension, withdrawal or confiscation on account of the fact that the beneficiary or the members of his/her family reside in a Member State other than that in which the institution responsible for providing benefits is situated.

#### *Article 8*

### **Relations between this Regulation and other coordination instruments**

1 This Regulation shall replace any social security convention applicable between Member States falling under its scope. Certain provisions of social security conventions entered into by the Member States before the date of application of this Regulation shall, however, continue to apply provided that they are more favourable to the beneficiaries or if they arise from specific historical circumstances and their effect is limited in time. For these provisions to remain applicable, they shall be included in Annex II. If, on objective grounds, it is not possible to extend some of these provisions to all persons to whom the Regulation applies this shall be specified.

2 Two or more Member States may, as the need arises, conclude conventions with each other based on the principles of this Regulation and in keeping with the spirit thereof.

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## *[<sup>F4</sup>Article 9*

### **Declarations by the Member States on the scope of this Regulation**

1 The Member States shall notify the European Commission in writing of the declarations made in accordance with point (1) of Article 1, the legislation and schemes referred to in Article 3, the conventions entered into as referred to in Article 8(2), the minimum benefits referred to in Article 58, and the lack of an insurance system as referred to in Article 65a(1), as well as substantive amendments. Such notifications shall indicate the date from which this Regulation will apply to the schemes specified by the Member States therein.

2 These notifications shall be submitted to the European Commission every year and shall be given the necessary publicity.]

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#### **Textual Amendments**

- F4** Substituted by [Regulation \(EU\) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation \(EC\) No 883/2004 on the coordination of social security systems and Regulation \(EC\) No 987/2009 laying down the procedure for implementing Regulation \(EC\) No 883/2004 \(Text of relevance to the EEA and to the EU/Switzerland Agreement\)](#).

## *Article 10*

### **Prevention of overlapping of benefits**

Unless otherwise specified, this Regulation shall neither confer nor maintain the right to several benefits of the same kind for one and the same period of compulsory insurance.]

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#### **Editorial Information**

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

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- (1) [<sup>X1</sup>]<sup>F1</sup>Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (OJ L 186, 11.7.2019, p. 21).]]

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**Editorial Information**

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

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**Textual Amendments**

- F1** Inserted by [Regulation \(EU\) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations \(EC\) No 883/2004, \(EU\) No 492/2011, and \(EU\) 2016/589 and repealing Decision \(EU\) 2016/344 \(Text with relevance for the EEA and for Switzerland\)](#).



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