

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

TITLE III

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

CHAPTER 4

Invalidity Benefits

Article 44

Persons subject only to type A legislation

1 For the purposes of this Chapter, "type A legislation" means any legislation under which the amount of invalidity benefits is independent of the duration of the periods of insurance or residence and which is expressly included by the competent Member State in Annex VI, and "type B legislation" means any other legislation.

2 A person who has been successively or alternately subject to the legislation of two or more Member States and who has completed periods of insurance or residence exclusively under type A legislations shall be entitled to benefits only from the institution of the Member State whose legislation was applicable at the time when the incapacity for work followed by invalidity occurred, taking into account, where appropriate, Article 45, and shall receive such benefits in accordance with that legislation.

3 A person who is not entitled to benefits under paragraph 2 shall receive the benefits to which he is still entitled under the legislation of another Member State, taking into account, where appropriate, Article 45.

4 If the legislation referred to in paragraph 2 or 3 contains rules for the reduction, suspension or withdrawal of invalidity benefits in the case of overlapping with other income or with benefits of a different kind within the meaning of Article 53(2), Articles 53(3) and 55(3) shall apply *mutatis mutandis*.

Article 45

Special provisions on aggregation of periods

The competent institution of a Member State whose legislation makes the acquisition, retention or recovery of the right to benefits conditional upon the completion of periods of insurance or residence shall, where necessary, apply Article 51(1) *mutatis mutandis*.

Status: Point in time view as at 29/04/2004.

Changes to legislation: There are outstanding changes not yet made to Regulation (EC) No 883/2004 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 46

Persons subject either only to type B legislation or to type A and B legislation

1 A person who has been successively or alternately subject to the legislation of two or more Member States, of which at least one is not a type A legislation, shall be entitled to benefits under Chapter 5, which shall apply *mutatis mutandis* taking into account paragraph 3.

2 However, if the person concerned has been previously subject to a type B legislation and suffers incapacity for work leading to invalidity while subject to a type A legislation, he shall receive benefits in accordance with Article 44, provided that:

- he satisfies the conditions of that legislation exclusively or of others of the same type, taking into account, where appropriate, Article 45, but without having recourse to periods of insurance or residence completed under a type B legislation, and
- he does not assert any claims to old-age benefits, taking into account Article 50(1).

3 A decision taken by an institution of a Member State concerning the degree of invalidity of a claimant shall be binding on the institution of any other Member State concerned, provided that the concordance between the legislation of these Member States on conditions relating to the degree of invalidity is acknowledged in Annex VII.

Article 47

Aggravation of invalidity

1 In the case of aggravation of an invalidity for which a person is receiving benefits under the legislation of one or more Member States, the following provisions shall apply, taking the aggravation into account:

- a the benefits shall be provided in accordance with Chapter 5, applied *mutatis mutandis*;
- b however, where the person concerned has been subject to two or more type A legislations and since receiving benefit has not been subject to the legislation of another Member State, the benefit shall be provided in accordance with Article 44(2).

2 If the total amount of the benefit or benefits payable under paragraph 1 is lower than the amount of the benefit which the person concerned was receiving at the expense of the institution previously competent for payment, that institution shall pay him a supplement equal to the difference between the two amounts.

3 If the person concerned is not entitled to benefits at the expense of an institution of another Member State, the competent institution of the Member State previously competent shall provide the benefits in accordance with the legislation it applies, taking into account the aggravation and, where appropriate, Article 45.

Article 48

Conversion of invalidity benefits into old-age benefits

1 Invalidity benefits shall be converted into old-age benefits, where appropriate, under the conditions laid down by the legislation or legislations under which they are provided and in accordance with Chapter 5.

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2 Where a person receiving invalidity benefits can establish a claim to old-age benefits under the legislation of one or more other Member States, in accordance with Article 50, any institution which is responsible for providing invalidity benefits under the legislation of a Member State shall continue to provide such a person with the invalidity benefits to which he is entitled under the legislation it applies until paragraph 1 becomes applicable in respect of that institution, or otherwise for as long as the person concerned satisfies the conditions for such benefits.

3 Where invalidity benefits provided under the legislation of a Member State, in accordance with Article 44, are converted into old-age benefits and where the person concerned does not yet satisfy the conditions laid down by the legislation of one or more of the other Member States for receiving those benefits, the person concerned shall receive, from that or those Member States, invalidity benefits from the date of the conversion.

Those invalidity benefits shall be provided in accordance with Chapter 5 as if that Chapter had been applicable at the time when the incapacity for work leading to invalidity occurred, until the person concerned satisfies the qualifying conditions for old-age benefit laid down by the national legislations concerned or, where such conversion is not provided for, for as long as he is entitled to invalidity benefits under the latter legislation or legislations.

4 The invalidity benefits provided under Article 44 shall be recalculated in accordance with Chapter 5 as soon as the beneficiary satisfies the qualifying conditions for invalidity benefits laid down by a type B legislation, or as soon as he receives old-age benefits under the legislation of another Member State.

Article 49

Special provisions for civil servants

Articles 6, 44, 46, 47 and 48 and Article 60(2) and (3) shall apply *mutatis mutandis* to persons covered by a special scheme for civil servants.

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