

**Ministry of Employment
National Board of Industrial Injuries
(Arbejdsskadestyrelsen)**

(VEJ nr 9400 Vejledning om arbejdsskade mv. EF-forordning om koordinering af sociale sikringsordninger nr. 883/2004 DEL VII)

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TRANSLATION

**GUIDE TO WORKERS' COMPENSATION ETC.
REGULATION (EC) NO. 883/2004 ANNEX VII
ON THE COORDINATION OF SOCIAL SECURITY SYSTEMS**

PREFACE

For a number of years, on European level, a new Regulation on the coordination of social security within the EU has been underway, and this work has now been completed with the adoption of a new Regulation on the coordination of social security systems. This Regulation comes into force on 1st May 2010, simultaneously with a new Regulation on rules for the implementation of the coordination Regulation.

The EEA countries (Norway, Iceland and Liechtenstein) and Switzerland first have to endorse the EU rules in order for the new Regulations to apply in respect of these countries. This will probably happen after 1st May 2010. Until the EEA countries and Switzerland have endorsed the EU rules it is still necessary, in respect of these countries, to apply the rules of the current EU Regulations 1408/1971 and 574/1974 on the coordination of social security systems.

Ministries, Directorates and Government agencies who are responsible for the administration of the legislation on social protection in Denmark have regularly, since 1986, published guides to the EU rules on social security to be applied together with Danish legislation.

The most recent, in April 1997, was a compiled and edited guide to EU rules on social protection, in the form of seven booklets on the application of EU Regulations 1408/71 and 574/72 in respect of Danish legislation.

A few of these booklets have subsequently been replaced with updated guides etc., and changes have been made to the guides to the extent that there have been changes in rules or judicial practice.

The guides, nine in all, were written by the Danish Pensions Agency (Pensionsstyrelsen), the National Board of Industrial Injuries (Arbejdsskadestyrelsen), the National Directorate of Labour (Arbejdsdirektoratet), the National Labour Market Authority (Arbejdsmarkedsstyrelsen), the Ministry of Health (Indenrigs- og Sundhedsministeriet), the Ministry of Social Affairs (Socialministeriet), the tax authority SKAT, and the Labour Market Supplementary Pension Fund (ATP).

The booklets can be read separately. It should be noted, however, that the general introduction describes a number of mutual provisions applying to all social security systems and therefore should be read together with the other booklets.

In connection with the new EU Regulation there will be a new Nordic Convention on social protection taking into account the changed rules. The new Convention only comes into force at a later date.

Introduction

Chapter 1. Persons covered

Chapter 2. Geographical application

Chapter 3. Determination of the legislation applicable – in which Member State is the person protected?

- 3.1. The country of protection – the competent country
- 3.2. Main rule – the legislation of the country of employment
- 3.3. Work on a ship
- 3.4. Civil servants and persons employed on similar terms
- 3.5. Temporary posting for work in another Member State
- 3.6. Temporary employment agencies

Chapter 4. Benefits in connection with industrial injuries – which benefits is the injured person entitled to?

- 4.1. The right to benefits in kind (Article 36) and reimbursement between institutions (Article 41)
- 4.2. Costs for transport (Article 37)
- 4.3. Benefits in connection with an occupational disease when the injured person has been exposed to the same risk in several Member States (Article 38)
- 4.4. Aggravation of an occupational disease (Article 39)

Chapter 5. The National Board of Industrial Injuries – tasks as a competent institution

- 5.1. Reporting a claim
- 5.2. Claims processing
- 5.3. Cash benefits
- 5.4. Benefits in kind/costs for medical care
As a consequence of the rules on own contribution, costs for necessary medical care in another Member State, incurred by an injured person protected in Denmark, will be reimbursed by the workers' compensation system. According to practice, the injured person must forward original, certified invoices to the National Board of Industrial Injuries.
- 5.5. The tasks of the National Board of Industrial Injuries as the competent institution in the country residence or domicile
- 5.6. Liaison body
- 5.7. Medical examination
- 5.8. Reimbursement of costs for medical care

Chapter 6. Process descriptions

- 6.1. EESSI – Electronic Exchange of Social Security Information
- 6.2. E-forms
- 6.3. SED's (Structured Electronic Documents)
- 6.4. Electronic exchange of SED's
- 6.5. Paper SED's
- 6.6. Portable documents (PD)

Introduction

A new EC Regulation on the coordination of social security systems was adopted in 2004. This Regulation – called the basic Regulation – has number 883/2004. It applies together with the Regulation on the implementation of the basic Regulation – called the implementing Regulation, No. 987/2009.

The basic Regulation contains a number of mutual provisions on general principles and on whose country's legislation to apply. These rules apply to all types of benefits comprised by the basic Regulation. Furthermore there are a number of specific rules attached with the various types of benefits.

This guide gives an account of the rules for benefits in connection with industrial injuries etc. A description of the mutual principles and the rules on determination of legislation is given to the extent that these are relevant for the decision on entitlement to benefits in connection with industrial injuries etc.

For a more detailed description, refer to the general introduction to EC rules (Generel introduktion til EF-reglerne (in Danish only)).

The implementing Regulation first and foremost contains rules for the practical administrative implementation of the rules in the basic Regulation, such as rules for filing and processing of applications and communication between Member States. Furthermore there are a few material rules in the implementing Regulation. These rules apply on an equal footing with the rules in the basic Regulation.

Chapter 1. Persons covered

Article 2 of the basic Regulation determines the persons covered by the basic Regulation (personal scope). Under this provision the basic Regulation applies to persons who are nationals of an EU Member State.

Thus Danish nationals are covered by the basic Regulation, Denmark being an EU Member State. Danish EU membership does not include the Faroe Islands and Greenland, and therefore the basic Regulation does not apply in the Faroe Islands or Greenland. However, since Faroese and Greenlanders are Danish nationals, the rules on determination of legislation also apply to such persons when they are within the geographical scope.

The basic Regulation does not directly apply to nationals of third countries, i.e. persons who are not nationals of an EU Member State.

Regulation 859/2003 extends the provisions of Regulations 1408/71 and 574/72 to nationals of third countries. This Regulation was adopted, however, with a legal basis in the Treaty establishing the European Community, Article 63(4). Due to Denmark's legal reservations, rules with a legal basis in the said Article do not apply to Denmark.

A Regulation replacing 859/2003 is expected to be adopted. Denmark will not endorse this Regulation, either. Therefore Denmark cannot apply the rules of the basic Regulation to nationals of third countries. To these persons national Danish rules apply.

With regard to personal scope, reference is made to Guide No. 9252 of June 2, 2010 (Danish Pensions Agency (Pensionsstyrelsen)), on mutual rules in Regulation 883/2004 (in Danish only).

Chapter 2. Geographical application

The Regulation is applicable within the following EU Member States.

The EU territory comprises the following countries in Europe and overseas territories:	The following countries/overseas territories are not EU Member States:
Aaland Islands (Finland)	Alderney (United Kingdom)
Austria	Anguilla (United Kingdom)
The Azores (Portugal)	Arctic territories (France)
The Balearic Islands (Mallorca, Ibiza) (Spain)	Aruba (Netherlands)
Belgium	The British Antarctic territories (United Kingdom)
Bulgaria	The British territory in the Indian Ocean (United Kingdom)
The Canary Islands (Spain)	British Virgin Islands (United Kingdom)
Ceuta (Spain)	Cayman Islands (United Kingdom)
Cyprus (south)	Cyprus (north)
Czech Republic	The Falkland Islands (United Kingdom)
Denmark	The Faroe Islands (Denmark)
Eire	French Polynesia (France)
Estonia	Greenland (Denmark)
Finland	Guernsey (United Kingdom)
France	Isle of Man (United Kingdom)
Germany	Jersey (United Kingdom)
Gibraltar (United Kingdom)	Mayotte, Saint Pierre
Great Britain and Northern Ireland	Miquelon (France)
Greece	Montserrat (United Kingdom)
Guadeloupe (France)	The Netherlands Antilles (Netherlands)
Guyana (France)	New Caledonia (France)

<p>The Hebrides (United Kingdom)</p> <p>Hungary</p> <p>Isle of Wight (United Kingdom)</p> <p>Italy</p> <p>Latvia</p> <p>Lithuania</p> <p>Luxembourg</p> <p>Madeira (Portugal)</p> <p>Malta</p> <p>Martinique (France)</p> <p>The Netherlands</p> <p>Poland</p> <p>Portugal</p> <p>Reunion (France)</p> <p>Romania</p> <p>Slovakia</p> <p>Slovenia</p> <p>Spain</p> <p>Sweden</p>	<p>Pitcairn (United Kingdom)</p> <p>Saint Helena (United Kingdom)</p> <p>Sandwich Islands (United Kingdom)</p> <p>South Georgia (United Kingdom)</p> <p>Turks and Caicos Islands (United Kingdom)</p> <p>The Vatican</p> <p>Wallis & Futuna Islands (France)</p>
<p>EEA countries and Switzerland</p>	
<p>Norway</p> <p>Iceland</p> <p>Liechtenstein</p> <p>Switzerland</p>	

The EEA countries and Switzerland first have to endorse the EU rules in order for the new Regulations to apply in respect of these countries. This will probably happen after 1st May 2010, the application date of the new Regulations.

Until the EEA countries and Switzerland have endorsed the EU rules, the rules in the current EU Regulations 1408/1971 and 574/1974 on the coordination of social security systems still apply in respect of these countries.

This guide will be updated once the EEA countries and Switzerland have endorsed the EU set of rules.

Chapter 3. Determination of the legislation applicable – in which Member State is the person protected?

Title II of the basic Regulation sets out the rules determining which country's social security system is applicable. The rules in the Regulation in respect of determination of legislation decide in which Member State a migrant worker is covered by social protection, but they do not decide whether the person in question is entitled to benefits under the legislation in the competent country. The rules on determination of legislation merely determine the country under whose legislation there may be entitlement to benefits or an obligation to pay contributions etc., whereas the entitlement to benefits and the obligation to pay contributions are decided by the legislation of the competent country.

This means that, in respect of migrant workers and self-employed persons, it is necessary, before making a decision on entitlement to benefits, to decide which country's legislation applies.

With regard to determination of applicable legislation in connection with Regulation 883/2004, the Danish Pensions Agency (Pensionsstyrelsen) has published a Danish-language guide, No. 951 of 31st May 2010.

3.1. The country of protection – the competent country

Persons covered by the Regulation are subject to the legislation in one Member State only – also called the competent country or the country of protection.

So it is not possible to apply at the same time the legislation of two or more countries to the same branch of social security or type of benefit. Nor is it possible to apply at the same time the legislation of one country to certain branches of social security or types of benefits and the legislation of another country to others.

Once the competent country has been pointed out by using the rules for determination of legislation, it is decided, in accordance with the provisions of the legislation of the competent country, whether there is a right to benefits or an obligation to pay contributions.

If Denmark is the competent country, the worker is protected by Danish workers' compensation and the employer must take out insurance against accidents at work in Denmark and join the Labour Market Occupational Diseases Fund (the AES). This applies even if the employer is domiciled in another Member State.

3.2. Main rule – the legislation of the country of employment

The main rule for working persons is that they are covered by the legislation in the country of employment. This applies regardless of other circumstances, such as where the employer or the self-employed business is domiciled, where the worker resides within the EU, or where tax is paid.

The competent country or the country of protection is the country where a person physically has paid employment or self-employed activity.

3.3. Work on a ship

A person employed on board a ship is covered by the legislation of the country whose flag the ship is flying. However, if the person resides and receives wages in the country where the employer is domiciled, he or she will be covered by the legislation of the country of residence, regardless of the flag of the ship.

3.4. *Civil servants and persons employed on similar terms*

Civil servants and persons employed on similar terms are covered by the legislation in the Member State in whose administration he or she is employed. Persons working for public Danish employers are covered by Danish legislation on social protection. This also applies in cases where the work is performed in countries other than Denmark, regardless of duration. It is a prerequisite that the person in question works exclusively for public Danish employers.

3.5. *Temporary posting for work in another Member State*

Persons who are socially protected in one Member State and are sent out to perform temporary work in another Member State maintain their social protection in the State from where they are posted (the competent country). This means that they are not entitled to social benefits in the State to which they are posted and that the employer does not have to pay contributions to the social protection schemes of the State in question. However, the posted worker is entitled to medical and hospital care as if he/she were protected in the State where he/she is posted, but for the account of the competent country. The posting needs approval by the competent authority for determination of applicable legislation in the posting Member State. This is done by endorsing an E 101/PD form, a copy of which is sent electronically to the authority in the State where the person in question is posted.

Example: A worker who is posted by an undertaking in Poland to perform temporary work in Denmark remains socially protected in Poland. If the worker has an accident at work while working in Denmark, his/her right to compensation will be decided by a Polish authority in accordance with Polish rules. The injured person is not entitled to compensation under the Danish Workers' Compensation Act. On the other hand the injured person is entitled to medical and hospital care as if he/she were socially protected in Denmark, but for Poland's account.

3.6. *Temporary employment agencies*

A person who is made available by a temporary employment agency or an undertaking specialised in referring labour across national borders is not regarded as a posted worker. This means that such persons are covered by the main rule of the Regulation on protection in the country of employment. This does not apply, however, if the agency has substantial business activities in the country where it is domiciled, but there are special requirements to documentation that the person in question was in effect posted abroad.

Example: A person from Poland is referred by a Polish temporary employment agency to a Danish undertaking. The agency's activities mainly consist in referring labour to Danish undertakings. This person is not posted for temporary work for the agency, but is referred for work in Denmark. As the person in question has gainful employment in Denmark, the person in question is socially protected – and thus also covered by workers' compensation – in Denmark. The Danish employer must take out insurance for accidents at work and join the Labour Market Occupational Diseases Fund in respect of the person in question.

Chapter 4. Benefits in connection with industrial injuries – which benefits is the injured person entitled to?

4.1. *The right to benefits in kind (Article 36) and reimbursement between institutions (Article 41)*

A worker who, in pursuance of the rules on determination of applicable legislation, is socially protected in one Member State and sustains an industrial injury is entitled, under Article 36 of the Regulation, to benefits in kind (medical care etc.) in another Member State where the worker resides or lives, in accordance with the rules applying in the country of residence or domicile, as if the worker had been insured against industrial injuries in that country. The concept of benefits in kind is defined in Article 1 of the Regulation and has a wide scope.

Article 36 refers to Articles 17-20 on benefits in connection with illness. See guide published by the Danish Ministry of Health on the coordination of health benefits and certain social benefits for citizens travelling between the EU Member States (in Danish only).

In other words, it is the legislation of the State of domicile or residence, and not the legislation of the competent State, that decides what the injured person is entitled to. Therefore benefits may be granted on a smaller or larger scale, or the benefits may be different from those given under the legislation of the competent country. By way of example, the German workers' compensation system will grant adaptation of a dwelling or a car for special or disabled use.

As the worker is covered by social protection in one State (the competent country), but receives medical care as a benefit in kind in another Member State (the country of residence or domicile), the obligations of the competent country to the injured person are converted into an obligation to pay the country of residence or domicile that has given the injured person medical care. This means that the competent country must reimburse such costs as the country of residence or domicile has incurred in the form of benefits in kind.

According to section 15(1) of the Workers' Compensation Act, it is possible, pending the processing of the case, to defray costs for medical care or rehabilitation, provided such measures are necessary in order to obtain the best possible cure, in cases where such costs are not covered under the Health Act or as an element of treatment in a public hospital.

According to section 15(2) of the Workers' Compensation Act, costs for the acquisition of artificial limbs, glasses, and similar aids, as well as wheelchairs, can be defrayed if such aids are necessary to ensure the outcome of the medical care or rehabilitation, to diminish the effects of the injury, or to assess more accurately the extent of the loss of earning capacity and the degree of permanent injury.

The Regulation does not change the obligations of the Danish health service under the Health Act in relation to the obligations of workers' compensation under the Workers' Compensation Act. The obligation of the workers' compensation system (the insurance company or the Labour Market Occupational Diseases Fund/the AES) to pay in such situations is governed by section 15 of the Workers' Compensation Act and the practice developed in accordance with this provision in Danish workers' compensation cases.

Example 1

A worker living in Germany, who is under social protection in Denmark because he is hired to work in Denmark for a Danish employer, is injured at work. He needs medical care due to the industrial injury. He gets medical care in Germany where he lives. The Danish State is under an obligation to reimburse the German authorities for the medical care given to the injured person because of his/her industrial injury. The Danish workers' compensation system (the insurance company) must, in accordance with section 15(1) of the Workers' Compensation Act, reimburse the injured person for any own contribution to costs for medical care.

Example 2

The same situation as in example 1 above, but the difference is that the injured person has been granted, by the German workers' compensation institution, an artificial arm at a value of EUR 100,000. Such an artificial arm is a benefit to which the injured person would be entitled under German rules if he had been covered by workers' compensation in Germany. As it is practice under the Danish Workers' Compensation Act for Danish insurance companies to pay the costs directly to the carer, the German carer and the injured person living in Germany have the same rights as carers and injured persons living in Denmark. According to section 15(2) of the Workers' Compensation Act, the insurance company is obliged to pay the costs for the artificial arm.

If the injured person has paid for medical care in one Member State, for instance because the injured person, while residing temporarily in the State in question, did not bring relevant documentation of his/her healthcare insurance, the injured person may, after returning home, apply for reimbursement of costs paid from the authority in the country of residence. The reimbursement will ensure that the injured person does not pay more for the treatment than persons protected in the country of residence.

Example 3

A worker who is socially protected in Denmark is posted temporarily for work in Germany. He is injured in Germany and has to pay for treatment in the emergency ward, not having brought adequate documentation of his health care insurance. After returning to Denmark the injured person can get reimbursement of costs defrayed.

4.2. Costs for transport (Article 37)

If the injury has led to costs for special transport home, such costs may be reimbursed under section 15 of the Workers' Compensation Act. Claims for payment of transport costs will in principle be processed by the insurance company where the employer has taken out insurance against accidents at work.

Example 4

A person posted by a Danish undertaking for temporary work in Germany is injured in an accident at work. The injured person is transferred by ambulance from the workplace to the nearest hospital in Germany. The ambulance transport and the hospital care in Germany are benefits in kind for which Germany can claim reimbursement from the Danish State. After acute treatment the injured person must, however, return to Denmark where he lives and where he will receive further treatment for the consequences of his industrial injury. Due to the consequences of the injury, the injured person has to be transferred in a special ambulance. As the insurance company, according to practice under section 15 of the Workers' Compensation Act, is under an obligation to pay for transport home from abroad in such circumstances, the costs for being transported home must be defrayed by the insurance company. However, in the Workers' Compensation Act there is no authority to impose on the insurance company the cost for ambulance transport from the accident site to the hospital in Germany, the Danish legislation on industrial injuries not including any provisions to the effect that the insurance company must pay for ambulance transport from accident site to hospital.

In the Danish Workers' Compensation Act there is no authority to impose on the insurance company or the Labour Market Occupational Diseases Fund the cost for transporting home a person who has died as a consequence of an industrial injury. Article 37(2) therefore does not apply to persons who are under social protection in Denmark.

4.3. Benefits in connection with an occupational disease when the injured person has been exposed to the same risk in several Member States (Article 38)

Where an occupational disease was caused by harmful work in several Member States, the benefits (in Denmark: allowances/compensation) to which the injured person or the surviving dependants are entitled are granted in accordance with the legislation in the country where the injured person last performed such work, provided the requirements set out in the legislation of the Member State in question are met. A decision on this must take into consideration all preceding periods of time with relevant harmful work in other countries.

The processing of the claim must begin with the institution in the country where the injured person last suffered an exposure which, in view of its nature, might have been the cause of the disease. The institution in the last country cannot turn down the claim on the grounds that harmful exposures in the country in question are not in themselves sufficient for recognition of the claim under the legislation of the country in question.

If the claim does not qualify for recognition as an industrial injury under the legislation in the country where the injured person last suffered harmful exposure, even if all preceding periods with relevant exposure are included, the institution must make a decision to that effect and forward the documents of the case to the country where the injured person last suffered harmful exposures. The institution in that country must also, when assessing the claim under its own legislation, take into consideration the later harmful exposures in the country that forwarded the claim. When forwarding documents of the case, the legislation on protection of personal data must be complied with. This means that the injured person's consent must be obtained.

Example 5.

A slaughterhouse worker who for the past 4 months has worked in Denmark is diagnosed with a low-back disease. The injured person previously worked for 10 years in the United Kingdom as a slaughterhouse worker and for 8 years in Germany. The National Board of Industrial Injuries (Arbejdsskadestyrelsen), when assessing the claim in relation to the list of occupational diseases, must add previous work periods in Germany and the UK to the period worked in Denmark. If the added exposures meet the criteria for recognising the disease as an industrial injury, the injured person is entitled to benefits under the Workers' Compensation Act.

Example 6.

A slaughterhouse worker has for the past 6 years worked in a slaughterhouse in Germany and worked for 5 years in Denmark before that. The person in question has a back disorder which might have been caused by work. The Germany industrial injuries authority cannot recognise the back disorder as an industrial injury under German legislation and therefore forwards the documents of the case to the National Board of Industrial Injuries in Denmark. When assessing the claim, the National Board of Industrial Injuries must take into consideration the 6 years worked in Germany as well as the 5 years worked in Denmark.

4.4. Aggravation of an occupational disease (Article 39)

Compensation for aggravation of an occupational disease recognised under the legislation of a Member State must be defrayed by the competent institution of the Member State in question, except where the injured person, after the first compensation payment, has had employment in another Member State which is presumed to be able to cause or aggravate the disease in question.

In the latter case the institution recognising the aggravation must grant to the injured person a compensation the amount of which is equivalent to the difference between the benefits to which the injured person is entitled after the aggravation and the benefits to which the injured person would have been entitled before the aggravation, had he/she been covered by the legislation of the later State when he/she developed the disease.

If the injured person receives compensation from Member State A for an occupational disease which has developed as a consequence of work in Member State A and subsequently gets employment in Member State B which aggravates the disease, then the injured person is entitled to compensated for such aggravation in accordance with the legislation applying in State B.

The calculation method is that the workers' compensation system in State B calculates the total compensation amount to which the diseased person is entitled, i.e. including the aggravation. Then there will be a theoretical calculation in accordance with the rules in Member State B of the compensation before the aggravation, as if the person in question had been covered by workers' compensation in Member State B prior to the aggravation. The difference between the calculated amounts is disbursed to the diseased person.

Chapter 5. The National Board of Industrial Injuries – tasks as a competent institution

The National Board of Industrial Injuries is the competent institution for workers who are covered by Danish workers' compensation. The National Board of Industrial Injuries is furthermore the institution of the country of residence or domicile for persons who are protected against industrial injuries in another Member State.

In its capacity as the competent institution, the National Board of Industrial Injuries must -

- Process workers' compensation claims occurring in other Member States when the injured person is under social protection in Denmark
- Grant compensation for permanent injury and loss of earning capacity to injured persons and compensation to surviving dependants
- Certify, if asked by another Member State that has granted or will grant medical care in connection with an industrial injury, that the worker in question was protected in Denmark
- Make a decision on reimbursement of costs for benefits in kind – i.e. costs for medical care etc. – in connection with an industrial injury in other Member States under section 15 of the Workers' Compensation Act

5.1. Reporting a claim

Always provided that Danish legislation applies, the employer also has to report accidents occurring outside Denmark's borders if there are costs or losses that can be reimbursed under the Act. If there are any such costs, the claim must be reported to the workers' compensation institution. If there are no such costs, it usually is not necessary to report the accident to the workers' compensation system. The EU rules do not affect the Danish rules in this field. Injuries sustained abroad are not to be reported to the Danish Working Environment Authority.

5.2. Claims processing

When the National Board of Industrial Injuries has received notification of concrete injury claims, the Board first has to decide, in pursuance of the rules on determination of legislation, whether the worker is covered by Danish legislation or the legislation in another Member State.

If there is no relevant documentation that the worker was covered by Danish social protection at the date of the injury, it is necessary to gather information on the employment contract and to make a decision on determination of applicable legislation, perhaps after hearing the Danish Pensions Agency (Pensionsstyrelsen).

5.3. Cash benefits

Determining compensation and payment of compensation under the Danish Workers' Compensation Act do not cause any problems in relation to EU rules and therefore will not be mentioned here.

5.4. Benefits in kind/costs for medical care

The costs for necessary medical care which an injured person protected in Denmark has paid in another Member State as a consequence of rules on own contribution can be reimbursed within the workers' compensation system. According to practice the injured person has to send original, certified invoices to the National Board of Industrial Injuries.

5.5. The tasks of the National Board of Industrial Injuries as the competent institution in the country of residence or domicile

In its capacity as the institution of the country of residence or domicile, the National Board of Industrial Injuries must -

- Act as liaison body and grant administrative assistance to workers who reside or live in Denmark and who apply for benefits, due to industrial injuries, from the workers' compensation institution of another Member State
- Grant administrative assistance to the competent institution in another Member State by gathering medical information etc.

- Reimburse costs for medical care under section 15 of the Workers' Compensation Act to workers who live or reside in Denmark, but are covered by workers' compensation in another Member State, when there is an own contribution to be paid in connection with medical care within the public health care system

5.6. Liaison body

A worker who resides or lives in Denmark, but is covered by workers' compensation in another Member State, is entitled to assistance from the National Board of Industrial Injuries when claiming benefits from the competent institution.

Example 7

A national of an EU Member State with residence in Denmark has had an industrial injury while working in another Member State and contacts the National Board of Industrial Injuries in Denmark to get assistance to take legal proceedings for compensation in the other State. The National Board of Industrial Injuries establishes the contact and forwards documents to the relevant Member State.

5.7. Medical examination

The National Board of Industrial Injuries will assist the competent institution in another Member State with the necessary medical and follow-up examinations for the purposes of deciding workers' compensation benefits in the competent State. The original medical certificate (in Danish) is sent to the authority requesting the certificate. Certificates and documents cannot be rejected merely because they are in the language of another Member State. It is possible to demand reimbursement of costs occasioned by medical examinations.

Example 8

The National Board of Industrial Injuries receives a request from a Member State to arrange for a medical specialist's examination of a person who lives or resides in Denmark and is covered by workers' compensation in the other Member State, for the purposes of deciding workers' compensation benefits. The National Board of Industrial Injuries orders the examination in the same way as if it had been a claim covered by the Danish Workers' Compensation Act and forwards the invoice to the institution requesting the examination.

5.8. Reimbursement of costs for medical care

According to Article 36(2), a person who lives or resides in another Member State than the competent Member State and has an accident at work or develops an occupational disease will be entitled to special benefits in kind from the workers' compensation system. The benefits are defrayed by the institution in the country where the person resides or lives, in accordance with the legislation applying to that institution, as if the person in question were insured under that legislation, but for the account of the competent institution.

Example 9

A worker lives in Denmark and works in Germany. According to the rules on determination of applicable legislation the person in question is socially protected, and thus also covered by workers' compensation, in Germany. The person in question has an accident at work involving a tooth injury and is subsequently treated in Denmark for the tooth injury. The injured person has to be put in a position as if he/she were protected in Denmark under the Danish Workers' Compensation Act. This means that the injured person will get compensation under section 15 of the Act for that share of the treatment costs which the injured person would have to pay for himself. The National Board of Industrial Injuries can subsequently demand reimbursement from Germany of the cost.

Chapter 6. Process descriptions

6.1. EESSI – Electronic Exchange of Social Security Information

According to the basic Regulation and the implementing Regulation, the exchange of data between the relevant institutions must be electronic. The data exchange is made in the EESSI system, which includes catalogues, i.e. lists of institutions in the Member States, as well as SED's (Structured Electronic Documents) and descriptions of how to exchange, validate and store SED's. All SED's are sent and received electronically via national access points that forward them to the relevant institution. Thus the previously valid E-forms are abolished and replaced by SED's – Structured Electronic Documents.

The task of working out and agreeing on the necessary messages, formats, and process descriptions is expected to be completed in the spring of 2010.

Subsequently tests will be made in six Member States with a view to introducing the EESSI system in all Member States, enabling their institutions to exchange electronically all the necessary information not later than 1st May 2012, 2 years after the new Regulations took effect.

6.2. E-forms

In principle all E-forms are abolished as of 1st May 2010. E-forms which have already been issued and which, at face value, are valid after the said date do not become void, but it is not possible to issue new E-forms after 1st May 2010. However, Member States issuing the forms automatically in an electronic forms system, i.e. a system gathering information in national registers, can still issue E-forms. No Danish authority has such a system for E-forms.

This decision was made because it is not desirable for a Member State's institutions to replace an existing automatic forms system with paper forms completed by hand.

6.3. SED's (Structured Electronic Documents)

The SED's are built up in the same way for all sectors and with a view to electronic exchange.

6.4. Electronic exchange of SED's

In Denmark all SED's from Danish institutions, i.e. local authorities, regions, Government agencies etc., and from unemployment funds must be sent to other countries via an access point administered by the Danish Pensions Agency (Pensionsstyrelsen). All SED's are sent as encrypted messages, except for envelope information, i.e. information about sender and receiver etc., which is necessary to identify the local authority etc. to which the SED should be sent.

The remaining information in the SED pertaining to a specific citizen is encrypted.

The SED's are compiled for each data exchange, which means that one SED requesting information is answered by another SED. An electronic system can be built up in such a way that it recycles data from the first SED in the one including the reply.

6.5. Paper SED's

In the transitional period 1st May 2010 till 30th April 2012, i.e. from the date when the new rules take effect till the EESSI project has been fully implemented in all Member States, it is necessary to use paper SED's and send them with ordinary post between the institutions.

6.6. Portable documents (PD)

Previously, persons who were entitled to benefits in another Member State for Denmark's expense had various E-forms for documentation of their rights. These forms are replaced by special portable documents in a recognisable EU design. The final version of the documents is expected to become available in the course of the spring of 2010.

National Board of Industrial Injuries, August 6, 2010

Tor Even Mønter