

*Draft Order laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**EXITING THE EUROPEAN UNION  
SOCIAL SECURITY**

The Social Security Coordination (Council Regulation (EEC)  
No 574/72) (Amendment) (EU Exit) Regulations 2019

*Made* - - - - *\*\*\**

*Coming into force in accordance with regulation 1*

In accordance with paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018<sup>(1)</sup> a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, that Act.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Coordination (Council Regulation (EEC) No 574/72) (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

(2) In these Regulations “Regulation (EEC) No 574/72” means Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community<sup>(2)</sup>.

**Amendment of Regulation (EEC) No 574/72**

2. The Schedules to these Regulations amend Regulation (EEC) No 574/72 as follows—

- (a) Schedule 1 amends Title 1 (general provisions);
- (b) Schedule 2 amends Title 2 (implementation of the general provisions of the Regulation);

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<sup>(1)</sup> 2018 c. 16.

<sup>(2)</sup> The text of Regulation (EEC) 574/72 is restated in Annex A, Part 2 of Council Regulation (EC) No 118/97 of 2 December 1996. There are amendments to that text.

- (c) Schedule 3 amends Title 3 (implementation of the provisions of the Regulation for determining the legislation applicable);
- (d) Schedule 4 amends Title 4 (implementation of the special provisions of the Regulation relating to the various categories of benefits);
- (e) Schedule 5 amends Title 5 (financial provisions);
- (f) Schedule 6 amends Title 6 (miscellaneous provisions);
- (g) Schedule 7 amends Title 7 (transitional and final provisions);
- (h) Schedule 8 amends the Annexes.

### **Revocation**

**3.** Title 6a (provisions governing electronic data processing)(**3**) of Regulation (EEC) 574/72 is revoked.

Signed on behalf of the Secretary of State for Work and Pensions

Date

*Name*  
Minister of State for Employment  
Department for Work and Pensions

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(3) Title 6a was inserted by Council Regulation (EC) No 1290/97 of 27 June 1997 (“Regulation No 1290/97”).

## SCHEDULES

### SCHEDULE 1

Regulation 2(a)

#### Amendments to Title 1: General provisions

1. After Article 1 insert—  
“Article 1A

##### *Performance of obligations dependent on Member State information*

1. This Article applies where, in the view of the competent authority of the United Kingdom, performance of an obligation under this Regulation by an institution in the United Kingdom is wholly or partly dependent on information held by an institution or authority in a Member State.
2. The institution in the United Kingdom must take all reasonable steps to obtain the information from the institution or authority in the Member State.
3. If the institution in the United Kingdom complies with the duty in paragraph 2 but is unable to obtain the information and the institution considers that the claimant could provide the information, it must inform the claimant that it has been unable to obtain the information and ask the claimant:
  - (a) to take reasonable steps to obtain the information from the institution or authority in the Member State; or
  - (b) where it is not possible for the claimant to obtain the information from the institution or authority in the Member State, to provide such relevant information or evidence as the claimant has.
4. The institution in the United Kingdom is not required to perform the obligation if complies with the duty in paragraphs 2 or 3 but is unable to obtain the information and:
  - (a) the claimant does not provide it within a reasonable time; or
  - (b) the claimant does provide it but the institution is of the view that the information is not accurate or is incomplete.”
2. Omit Article 2(4).
3. In Article 3 for “Member State” in each place it occurs substitute “State”.
4. In Article 4(5)—
  - (a) in paragraphs 1, 2, 3 and 6 for “Member State” in each place it occurs substitute “State”;
  - (b) in paragraph 5 omit “104,”;
  - (c) in paragraph 8 for “Member States” substitute “States”;

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(4) Article 2(1) was substituted by Regulation 1290/97 and was subsequently substituted by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 (“Regulation No 631/2004”).

(5) Article 4(11) was revoked by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 (“Regulation No 647/2005”).

- (d) in paragraph 10(b) for “89(1), 91(2), 102(2), 109, 110, 113(2)” substitute “91(2), 109, 113”.

## SCHEDULE 2

Regulation 2(b)

Amendments to Title 2: Implementation of the general provisions of the Regulation

1. Omit Article 5 and the heading “Implementation of Articles 6 and 7 of the Regulation”.
2. In Article 6—
  - (a) for “Articles 9 and 15(3)” substitute “Article 9”;
  - (b) for “one Member State” substitute “the United Kingdom”;
  - (c) for “that Member State” substitute “the United Kingdom”;
  - (d) for “Articles” substitute “Article”;
  - (e) for paragraph 2 substitute—
 

“2. In order to invoke the provisions of Article 9(2) of the Regulation, a person shall take reasonable steps to obtain a certified statement relating to the insurance periods or periods of residence completed under the legislation of any Member State and shall submit any such statement to the institution in the United Kingdom.”.
3. In Article 7—
  - (a) in paragraph 1—
    - (i) for “two” substitute “the United Kingdom and one”;
    - (ii) for “Member States concerned” substitute “United Kingdom”;
  - (b) in paragraph 2—
    - (i) for “Article 12(2), (3) and (4)” substitute “Article 12(2) and (3)”;
    - (ii) for “institutions concerned” to the end of the paragraph substitute “institution in the United Kingdom shall request all appropriate information from the competent institutions of the Member States concerned”.
4. In Article 8(6)—
  - (a) in the heading for “Member States” substitute “States”;
  - (b) in paragraph 1—
    - (i) for “two” substitute “the United Kingdom and one”;
    - (ii) for “Member State in whose territory the confinement took place” substitute “United Kingdom, if the confinement took place in the United Kingdom,”;
    - (iii) after “take place in” insert “the United Kingdom or in”;
    - (iv) for “Member State” substitute “State”;
  - (c) in paragraph 2—
    - (i) after “incapacity for work” insert “and the person was last subject to the legislation of the United Kingdom”;
    - (ii) for “Member State to which the person concerned was last subject” substitute “United Kingdom”;

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(6) Article 8(3) was substituted by Council Regulation (EC) No 1606/98 of 29 June 1998 (“Regulation No 1606/98”).

- (d) omit paragraph 3.
- 5. In Article 8a—
  - (a) in the heading for “one or more other Member States” substitute “the United Kingdom”;
  - (b) for “one or more Member States” substitute “the United Kingdom”.
- 6. In Article 9—
  - (a) in the heading for “Member States” substitute “States”;
  - (b) in paragraph 1—
    - (i) for “a Member State” substitute “the United Kingdom”;
    - (ii) for “that Member State only” substitute “the United Kingdom”;
    - (iii) omit from “, whilst the right “ to the end of the paragraph;
  - (c) in paragraph 2—
    - (i) for “one Member State” substitute “the United Kingdom”;
    - (ii) for “two” in both places it occurs substitute “the United Kingdom and one”;
    - (iii) for “territory of the Member States” substitute “United Kingdom”;
    - (iv) for “Member State” substitute “State”;
    - (v) omit from “, whilst the right” to the end of the paragraph;
  - (d) omit paragraph 3(7).
- 7. Omit Article 9a.
- 8. In Article 10—
  - (a) in paragraph 1(a)—
    - (i) for “a Member State” substitute “the United Kingdom”;
    - (ii) after “suspended when” insert “it appears to the United Kingdom that”;
    - (iii) for “another Member State” substitute “a Member State”;
    - (iv) omit “or in application of Articles 73, 74, 77 or 78 of the Regulation”;
  - (b) paragraph 1(b) for “first member State” substitute “United Kingdom”;
  - (c) in paragraph 1(b)(i)—
    - (i) for “another Member State” substitute “a Member State”;
    - (ii) for “the right to family benefits due either only under national legislation of that Member State or under these Articles shall be suspended” substitute “the United Kingdom will deem that Member State to have suspended its family benefits”;
    - (iii) omit the final sentence;
  - (d) in paragraph 1(b)(ii)—
    - (i) for “another Member State” substitute “a Member State”;
    - (ii) for “the right to family benefits” to the end of the paragraph substitute “the United Kingdom will deem that Member State to have suspended its family benefits”;
  - (e) omit paragraph 2;
  - (f) in paragraph 3—
    - (i) for “two Member States” substitute “the United Kingdom and a Member State”;

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(7) Article 9(3) was substituted by Regulation No 1606/98.