



The Swedish Ship Officers' Association

Some general principles and benefits under the EEC Regulation 1408/71

This is a brief introduction from the Swedish Ship Officers' Association on social protection for seafarers and their families residing in the EU/EEA area and working on board Swedish flagged vessels. This information can not be viewed as legal advice.

Social legislation is constantly changing and there is reason to verify the actual condition prior to taking employment. The authority administrating questions regarding social protection in Sweden is Försäkringskassan (the Swedish Social Insurance Agency).

According to the EEC Regulation 1408/71 there are four main principles.

The principle of equal treatment means that any discrimination on grounds of nationality is prohibited under Article 3 in the EEC regulation.

The aggregation principle is aimed at employees who work in a member country so they should not lose benefits or rights which they previously earned in another member country. For example Article 18 in the EEC regulation.

The exportability principle means that benefits in the event of death, disability, old age, occupational diseases and industrial accidents and to the survivors family can be paid in the member country where the eligible is resident. It also means that cash benefits which a person acquired in one member country should be paid if he or she lives or moves to another member country. Article 10 in the EEC regulation.

The principle of prorata temporis applies in some cases in calculating the pension where a pensioner as a result of work or residence in several member states have earned the right to a pension from more than one member country. The pensioner is then entitled to a pension calculated proportionally from each of the countries he or she earned the right to retire in. According to Article 46 of the EEC regulation.

The general rule is that the country of work are the laws applicable and that only one country's law applies. Article 13.1 EEC regulation. Should the EU/EEA resident person also work in his home country the home country's jurisdiction applies.

The main rule for seafarers is contained in Article 13.2c. Under this article, a person employed on board a ship is subject to the laws of that State. Exceptions exist in particular in Article 14b.4 indicating that a person employed on board a vessel flying the flag of a Member State and remunerated for such employment by an undertaking or a person whose registered office or place of business is in the territory of another Member State shall be subject to the legislation of the latter State if he is resident in the territory of that State; the undertaking or person paying the remuneration shall be considered as the employer for the purposes of the said legislation.

If the main rule is applicable, social security contributions shall be paid in Sweden and whether the exemption applies, the social contributions should be paid in their home country for a EU/EEA resident seafarer.

A family member does not have an independent right to benefits without any right to benefits derived from the insured. If the spouse is working in another EU/EEA country, he/she is independently insured in that country and is not considered a family member.

If both parents are working in different member countries family benefits are in the first place awarded from the country where the children reside and one of the parents is working. If the sum of family benefits are greater in the country where the other parent is working, the latter will be paying out the excess.

If the parent has the right to family benefits solely on the basis of residence, the country of residence pays out the excess amount of the sum of family benefits if this is higher in the country of residence than in the working country.

It is the Swedish law definition of what constitutes a family member who is crucial for the right to family benefits. Family member is a spouse or permanent cohabitation who has been married and have or had children together and children under 18. It is the country of residence definition of what constitutes a family member who is crucial for the right to benefits.

EU rules apply to the benefits that the Swedish government has notified and what the EU-Court has decided.

- Sickness benefit, maternity allowance
- Health care
- Rehabilitation allowance
- Disease carrier allowance
- Paternity leave
- Child allowance, additional child allowance
- Housing allowances in the form of grants to children living at home
- Maintenance
- Old-age pensions, survivor' pension, orphan's pension
- Sickness benefit/activity
- Compensation for work injury

The sick pay base income earnings will be multiplied by a factor of 0.97 in calculating the daily allowance. This means that the sick pay base income will be reduced to 1.3 percent. The daily allowance (For example: sickness benefit, rehabilitation allowance, maternity allowance, temporary parental benefits, disease carrier allowance) is 80 percent of the sick pay base income earnings. For sickness benefit it applies only to the first 364 days in a period of sickness. Then you can either apply for continued sickness benefit, which is equal to 80 percent or apply for extended sickness benefit which is at 75 percent of the sick pay base income earnings

Sickness and maternity allowance

Sick pay/sickness benefit

Sick pay is paid by the company and the seafarers rights are regulated in the Seamen's Act and collective bargaining agreements. The Seamen's Act specifies 30 days sick pay for domestic traffic and 60 days for foreign traffic. The collective agreements can extend sick pay periods up to five months depending on agreement. During the time the company pays sick pay to the seafarer the company may be entitled to the compensation normally granted the seafarer from the social security system.

At the end of the sick pay period sickness benefit will be paid to the seafarer from the Social Insurance Agency (Försäkringskassan). Sickness benefit is a work-based benefit. In order to obtain sickness benefit from the social security system the system must be able to establish a sickness benefit base income.

The base income must be at least 24% of the basic amount according to law further a income above 7 ½ times the basic amount is not included in the sick pay base income.

In order to receive sickness benefit the insured person's work capacity must be reduced by at least one quarter. Sick pay can be paid to a quarter, half, three-quarters or fully. At first the right to sick pay is assessed in relation to the ordinary working tasks, but if the insured is unable to resume his regular work and the employer has no redeployment opportunities the insured is assessed in relation to the whole labour market.

Since July 1, 2008 new rules apply on both how long you can get sickness benefit and how the Social Insurance Agency assesses entitlement to sickness benefit pay. Detailed information is provided by the Social Insurance Agency.

The important thing for seamen are that the Social Insurance Agency begins to count the number of days of entitlement to sickness benefit pay from the first day in the rehabilitation chain and from the first day of all cases of illness that progresses from sickness benefit pay for maternity allowance.

Rehabilitation allowance

At first the employer is responsible for the identification and need of rehabilitation and is also responsible for the initiation of the rehabilitation. The employer is obliged to respond to the rehabilitation measures which can be implemented within the company. For example

- adaptation of the workplace
- revised tasks/redeployment
- changing working hours
- occupational training

Together with the Social Insurance Agency in a reconciliation meeting the employer must actively plan for measures to facilitate the employee's return to work.

If the insured participates in a vocational rehabilitation program rehabilitation allowance can be paid while the rehabilitation program is ongoing. Normally the Social Insurance Agency will pay rehabilitation allowance for a period of 3 months. Contact the Social Insurance Agency if it is deemed to be necessary with job training. Annuity can be paid if there is a recognized occupational injury. Rehabilitation measures might be occupational training, retraining for another profession. A rehabilitation plan must be drawn up and approved by the Social Insurance Agency.

Disease carrier allowance

If the insured person has or is suspected of having a contagious disease but still is able to work or if the insured infects others or is suspected of being infected without being sick disease carrier allowance can be paid if there is a decision under the Communicable Diseases Act or the Food Act. A medical or health check has to clarify if the insured person is infected of a dangerous social disease or if the insured person has a disease, an infection, a wound or other injury. If so the insured person is not allowed to handle food.

Maternity allowance

Anyone who is pregnant is entitled to be reassigned to other duties if the woman has a physically demanding job that she can not continue because of pregnancy or being suspended from duties with the support of the Work Environment Act. Maternity allowance can be paid if the woman's work is reduced by at least one quarter because of the pregnancy and she has a physically demanding job or she has a job that she can not perform because of the occupational risks. Maternity allowance is only paid if the employer can not replace her.

If the woman has a physically demanding work and can not be replaced she can receive maternity allowance during her pregnancy up to 50 days. Earliest from the 60th day before the expected birth. The last 10 days before expected childbirth maternity allowance will not be paid. If the woman has been suspended from her job with the support of the Work Environment Act and can not be replaced she can get maternity allowance every day she is absent from work, except for the last 10 days before childbirth.

Paternity leave

A father to a new born may be entitled to 10 days of parental benefit in connection with childbirth or an adoption. The days may be taken until the 60th day following the date on which the child comes home from hospital. The insured must refrain from work to have the right to collect the parental benefit.

Health benefits

The insured is entitled to planned health care in the country of residence and the country of work and the right to emergency medical treatment in other EU/EEA countries on the conditions prevailing in that country. It is the country of work who pays the cost of care.

It is **important** for seafarers working on board Swedish flagged vessels that they are registered in Sweden i.e. registered at the Swedish Social Insurance Agency. This is done most easily by submitting Form 5456 at www.fk.se Once registration has taken place the European Health Insurance Card can be ordered through www.fk.se

Family benefits

Parental benefit

The child's parents, adoptive parents, legal guardians are entitled to parental benefits. When both parents are legal guardians they have the right to half of the total number of parental leave, i.e. 240 days each. A parent may transfer the right to parental leave, with the exception of 60 days at the level of sickness benefit.

If the parent the lone guardian or the other parent is not insured in Sweden the parent is entitled to all the 480 days. If the other parent receives parental leave in its working country/ country of residence these days will be deducted from the Swedish parental leave period. Parental benefit is paid to the parent that cares for the child. The parent must refrain from work to have the right to parental benefit. Parental benefit can be paid either in full, three-quarter, half, a quarter or eighth parts. Parental benefit can be paid until the child reaches the age of 8 years or leaves the first grade in school.

In order to obtain parental benefit at the level of sickness benefit the first 180 days the requirements are that the insured has a sickness benefit higher than the lowest level in at least 240 days before the child's actual or estimated birth. For the other 210 days parental benefit paid at the level of sickness benefit there is no requirement for a certain period of sickness benefit level. For 90 days the parental benefit is at the lowest level for everyone. Has the parent worked in another EU/EEA country the work periods in the other country can be counted to meet the 240-day requirement but the last period must be completed in Sweden.

Whole parental benefit is at least 180 Swedish crowns a day (elementary level) for 390 days. The other 90 days the compensation is 180 Swedish crowns a day (lower level) for children born/adopted 1/6 2006 or later. For children born or adopted before 1/6 2006 the lowest level is 60 Swedish crowns a day. If the parent is working in Sweden and has a sickness benefit that exceeds the basic level he/she can get parental benefit equivalent to sickness benefit. When calculating the sickness benefit income level income up to ten times the price base amount (prisbasbelopp) is calculated. This means that the parental benefit is at a higher level than the sickness benefit level.

Child allowance

Child allowances are paid after the month following the child's birth or when the benefit entitlement arises i.e. when residence is taken in Sweden alternative for those covered by the EG directive or Nordic convention when employment begins. Child allowance is paid until the quarter when the child reaches the age of 16 or until the month when the child allowance is terminated for any other reason, for example, the insured is no longer considered a resident of Sweden or the insured has ceased its work related activities in Sweden.

Additional child allowance

Additional child allowance can be paid if the child is over 16 years and is in elementary school, Sami school, special school, secondary school or equivalent education in another school. The additional child allowance is paid from the quarter after the child reaches the age of 16 and until the month the child leaves this type of school or the right of extended child allowance ends.

Multiple child allowance

Multiple child allowance is paid to the family who have two or more children. Multiple child allowance is received from child number two. Children over 16 who are studying and whose studies give the right to extended child allowance or scholarships may be counted if the child lives at home, studying full time, the study includes at least eight weeks and the student is unmarried. Higher education/university studies does not entitle to multiple child allowance.

Multiple child allowance is paid until the second quarter of the year the student turns 20 or the month the right to multiple child allowance ceases otherwise.

Housing allowances in the form of special grants for children living at home

The right to housing allowances is entitled to the one who has custody of the child and is permanently living with the child. The housing allowance is calculated against income level and depends on the number of children living at home. The housing allowance is provisional and is calculated against the estimated income, the final allowance is determined by income taxation.

Maintenance support

Maintenance support can be received if the person liable to pay maintenance is working in Sweden and under the scope of the EEC regulation. Beneficiaries and children must be resident in another EU/EEA country. Repayment obligation or maintenance benefit must be determined.

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Issues related to social protection can be addressed to:

The Swedish Ship Officers' Association

Hans-Dieter Grahl

Tel. 08-10 60 16

Mobil 070-692 74 78

Fax 08-10 67 72

Mail and visitors: Gamla Brogatan 19, 111 20 STOCKHOLM

e-mail: dieter.grahl@sfbf.se

homepage: www.sfbf.se