



Miscellaneous Series No.1 (2020)

# Agreement

on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA Agreement and other agreements applicable between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom's membership of the European Union

London, 28 January 2020

[The Agreement has not yet been ratified by the United Kingdom]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
January 2020*

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**AGREEMENT ON ARRANGEMENTS BETWEEN ICELAND, THE  
PRINCIPALITY OF LIECHTENSTEIN, THE KINGDOM OF NORWAY  
AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN  
IRELAND FOLLOWING THE WITHDRAWAL OF THE UNITED  
KINGDOM FROM THE EUROPEAN UNION, THE EEA AGREEMENT  
AND OTHER AGREEMENTS APPLICABLE BETWEEN THE UNITED  
KINGDOM AND THE EEA/EFTA STATES BY VIRTUE OF THE UNITED  
KINGDOM'S MEMBERSHIP OF THE EUROPEAN UNION**

**PREAMBLE**

ICELAND,  
THE PRINCIPALITY OF LIECHTENSTEIN,  
THE KINGDOM OF NORWAY, AND  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,  
hereafter referred to as the Parties;

CONSIDERING that on 29 March 2017 the United Kingdom of Great Britain and Northern Ireland ("United Kingdom"), following the outcome of a referendum held in the United Kingdom and its sovereign decision to leave the European Union ("Union"), notified its intention to withdraw from the Union and the European Atomic Energy Community ("Euratom") in accordance with Article 50 of the Treaty on European Union, which applies to Euratom by virtue of Article 106a of the Treaty establishing the European Atomic Energy Community,

RECOGNISING the historic and deep partnerships between the United Kingdom and Iceland, the Principality of Liechtenstein ("Liechtenstein") and the Kingdom of Norway ("Norway") and the common desire to protect these relationships,

NOTING the Agreement between the United Kingdom and the Union on the withdrawal of the United Kingdom from the Union and Euratom which provides for an orderly withdrawal of the United Kingdom from the Union and which provides, in particular, for a transition or implementation period during which Union law will continue to be applicable to and in the United Kingdom in accordance with the provisions of that Agreement,

WISHING to set out necessary arrangements consequent upon the withdrawal of the United Kingdom from the Union, the EEA Agreement and other agreements applicable between the United Kingdom and Iceland, Liechtenstein or Norway by virtue of the United Kingdom's membership of the Union,

NOTING that the applicable rights and obligations under the EEA Agreement and other international agreements should continue to apply to the United Kingdom for

the duration of the transition period and that the Parties shall put in place any necessary arrangements for such continuation,

RECOGNISING that it is necessary to provide reciprocal protection for EEA EFTA nationals and for United Kingdom nationals, as well as their respective family members, where they have exercised free movement rights before a date set in this Agreement, and to ensure that their rights under this Agreement are enforceable and based on the principle of non-discrimination, recognising also that rights deriving from periods of social security insurance should be protected,

RESOLVED to ensure an orderly withdrawal through various separation provisions aiming to prevent disruption and to provide legal certainty to citizens and economic operators as well as to judicial and administrative authorities in the EEA EFTA States and in the United Kingdom, while not excluding the possibility of relevant separation provisions being superseded by agreement(s) on the future relationship between the EEA EFTA States and the United Kingdom,

CONFIRMING the Parties' understanding that the provisions of the present agreement are without prejudice to the sectoral adaptations to the EEA Agreement, including those regarding Liechtenstein contained in Annexes V and VIII to the EEA Agreement,

CONSIDERING that in order to guarantee the correct interpretation and application of this Agreement and compliance with the obligations under this Agreement, it is essential to establish provisions ensuring its overall governance and implementation,

UNDERLINING that this Agreement is founded on an overall balance of benefits, rights and obligations for the EEA EFTA States and the United Kingdom,

CONSIDERING that there is a need for both the United Kingdom and the EEA EFTA States to take all necessary steps to begin as soon as possible the formal negotiations of one or several agreements governing their future relationship with a view to ensuring that, to the extent possible, those agreements apply from the end of the transition period,

HAVE AGREED AS FOLLOWS:

## PART ONE

### COMMON PROVISIONS

#### ARTICLE 1

##### **Objective**

This Agreement sets out arrangements, following the withdrawal of the United Kingdom of Great Britain and Northern Ireland (“United Kingdom”) from the European Union (“Union”), the Agreement on the European Economic Area<sup>1</sup> (“EEA Agreement”) and other agreements applicable between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom’s membership of the Union in relation to:

- (a) the protection of rights of the nationals of Iceland, the Principality of Liechtenstein (“Liechtenstein”), the Kingdom of Norway (“Norway”) and the United Kingdom; and
- (b) other separation issues that follow from the relationship between the Parties to this Agreement.

#### ARTICLE 2

##### **Definitions**

For the purposes of this Agreement, the following definitions shall apply:

- (a) “EEA Agreement” means the main Agreement on the European Economic Area of 2 May 1992 with later amendments, and its Protocols and Annexes as well as the acts referred to therein;
- (b) “EEA EFTA States” means Iceland, Liechtenstein and Norway;
- (c) “EEA EFTA national” means a national of Iceland, Liechtenstein or Norway;
- (d) “United Kingdom national” means a national of the United Kingdom, as defined in the New Declaration by the Government of the United Kingdom of Great Britain and Northern Ireland of 31 December 1982 on the definition of the term ‘nationals’<sup>2</sup> together with Declaration No 63 annexed to the Final Act of the intergovernmental conference which adopted the Treaty of Lisbon<sup>3</sup>;

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<sup>1</sup> OJ L 1, 3.1.1994, p.3 and EEA EFTA States official gazettes

<sup>2</sup> OJ C 23, 28.1.1983, p.1

<sup>3</sup> OJ C 306, 17.12.2007, p.270

- (e) “Union citizen” means any person holding the nationality of a Member State of the European Union;
- (f) “EU-UK Withdrawal Agreement” means the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community signed in Brussels and London on 24 January 2020;
- (g) “Union law” has the meaning given to it in Article 2(a) of the EU-UK Withdrawal Agreement;
- (h) “transition period” refers to the time period in Article 126 of the EU-UK Withdrawal Agreement, including as extended in accordance with Article 132 of that Agreement if applicable;
- (i) “day” means a calendar day, unless otherwise provided in this Agreement or in provisions of the EEA Agreement made applicable by this Agreement.

## ARTICLE 3

### **Territorial Scope**

1. Unless otherwise provided in this Agreement or in provisions of the EEA Agreement, or of other agreements made applicable by this Agreement, any reference in this Agreement to the United Kingdom or its territory, shall be understood as referring to:

- (a) the United Kingdom;
- (b) Gibraltar, to the extent that the EEA Agreement or other agreements made applicable by this Agreement, were applicable to it immediately before the United Kingdom’s withdrawal from the Union;
- (c) the Channel Islands and the Isle of Man, to the extent that the EEA Agreement was applicable to them immediately before the United Kingdom’s withdrawal from the Union.

2. Unless otherwise provided in this Agreement, or in provisions of the EEA Agreement or of other agreements made applicable by this Agreement, any reference in this Agreement to EEA EFTA States, or their territory, shall be understood as covering the territories of Iceland, Liechtenstein and Norway to which the EEA Agreement applies.

## ARTICLE 4

### **Methods and Principles relating to the Effect, the Implementation and the Application of this Agreement**

1. The Parties undertake to ensure that all necessary measures are taken in order to give effect to the provisions of this Agreement and to implement the rights recognised in the present Agreement into their internal legal order through domestic legislation.
2. In the interpretation and application of any domestic legislation implementing this Agreement, and the rights contained therein, each Party's judicial and administrative authorities shall have due regard to this Agreement.
3. The provisions of Parts Two and Three of this Agreement shall, in their implementation and application, be interpreted in conformity with the provisions of Parts Two and Three of the EU-UK Withdrawal Agreement, in so far as they are identical in substance.

## ARTICLE 5

### **Good Faith**

The Parties shall, in full mutual respect and good faith, assist each other in carrying out tasks which flow from this Agreement.

They shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising from this Agreement and shall refrain from any measures which could jeopardise the attainment of the objectives of this Agreement.

## ARTICLE 6

### **References to the EEA Agreement and Other Agreements**

1. Unless otherwise provided in this Agreement, all references in this Agreement to the EEA Agreement shall be understood as references to the EEA Agreement as applicable on the last day of the transition period.
2. Unless otherwise provided in this Agreement, all references in this Agreement to Union acts or provisions thereof, shall be understood as references to the acts or provisions as incorporated into the EEA Agreement, including as amended or replaced, as applicable on the last day of the transition period.
3. Unless otherwise provided in this Agreement, where in this Agreement reference is made to Union acts or provisions thereof, such reference shall, where relevant, be understood to include a reference to the act as incorporated into the EEA

Agreement or provisions thereof that, although replaced or superseded by the act referred to, continue to apply in accordance with that act.

4. For the purposes of this Agreement, references to provisions of Union acts made applicable by this Agreement shall be understood to include references to the relevant Union acts supplementing or implementing those provisions, to the extent these acts are applicable pursuant to the EEA Agreement or other agreements made applicable by this Agreement, on the last day of the transition period.

5. Unless otherwise provided in this Agreement, references to provisions of any other agreement made applicable by this Agreement shall be understood as references to those provisions as applicable on the last day of the transition period.

## ARTICLE 7

### **References to Member States**

For the purposes of this Agreement, all references to Member States and competent authorities of Member States in provisions of the EEA Agreement and of other agreements made applicable by this Agreement shall be read as including the United Kingdom and its competent authorities.

## **PART TWO**

### **CITIZENS' RIGHTS**

#### **TITLE I**

##### **GENERAL PROVISIONS**

###### **ARTICLE 8**

###### **Definitions**

For the purposes of this Part, and without prejudice to Title III, the following definitions shall apply:

- (a) “family members” means family members of EEA EFTA nationals or family members of United Kingdom nationals as defined in point (2) of Article 2 of Directive 2004/38/EC of the European Parliament and of the Council<sup>4</sup>, irrespective of their nationality, and who fall within the personal scope provided for in Article 9 of this Agreement;
- (b) “frontier workers” means EEA EFTA nationals or United Kingdom nationals who pursue an economic activity in accordance with Article 28 or 31 of the EEA Agreement in one or more States in which they do not reside;
- (c) “host State” means:
  - (i) in respect of EEA EFTA nationals and their family members, the United Kingdom, if they exercised their right of residence there in accordance with the EEA Agreement before the end of the transition period and continue to reside there thereafter;
  - (ii) in respect of United Kingdom nationals and their family members, the EEA EFTA State in which they exercised their right of residence in accordance with the EEA Agreement before the end of the transition period and in which they continue to reside thereafter;
- (d) “State of work” means:

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<sup>4</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

- (i) in respect of EEA EFTA nationals, the United Kingdom, if they pursued an economic activity as frontier workers there before the end of the transition period and continue to do so thereafter;
  - (ii) in respect of United Kingdom nationals, an EEA EFTA State in which they pursued an economic activity as frontier workers before the end of the transition period and in which they continue to do so thereafter;
- (e) “rights of custody” means rights and duties relating to the care of a child, and in particular the right to determine the child's place of residence, including rights of custody acquired by judgment, by operation of law or by an agreement having legal effect.

## ARTICLE 9

### **Personal Scope**

1. Without prejudice to Title III, this Part shall apply to the following persons:
  - (a) EEA EFTA nationals who exercised their right to reside in the United Kingdom in accordance with the EEA Agreement before the end of the transition period and continue to reside there thereafter;
  - (b) United Kingdom nationals who exercised their right to reside in an EEA EFTA State in accordance with the EEA Agreement before the end of the transition period and continue to reside there thereafter;
  - (c) EEA EFTA nationals who exercised their right as frontier workers in the United Kingdom in accordance with the EEA Agreement before the end of the transition period and continue to do so thereafter;
  - (d) United Kingdom nationals who exercised their right as frontier workers in one or more EEA EFTA States in accordance with the EEA Agreement before the end of the transition period and continue to do so thereafter;
  - (e) family members of the persons referred to in points (a) to (d), provided that they fulfil one of the following conditions:
    - (i) they resided in the host State in accordance with the EEA Agreement before the end of the transition period and continue to reside there thereafter;
    - (ii) they were directly related to a person referred to in points (a) to (d) and resided outside the host State before the end of the transition period, provided that they fulfil the conditions set out in point (2)

of Article 2 of Directive 2004/38/EC at the time they seek residence under this Part in order to join the person referred to in points (a) to (d) of this paragraph;

(iii) they were born to, or legally adopted by, persons referred to in points (a) to (d) after the end of the transition period, whether inside or outside the host State, and fulfil the conditions set out in point (2)(c) of Article 2 of Directive 2004/38/EC at the time they seek residence under this Part in order to join the person referred to in points (a) to (d) of this paragraph and fulfil one of the following conditions:

- both parents are persons referred to in points (a) to (d);
- one parent is a person referred to in points (a) to (d) and the other is a national of the host State; or
- one parent is a person referred to in points (a) to (d) and has sole or joint rights of custody of the child, in accordance with the applicable rules of family law of an EEA EFTA State or of the United Kingdom, including applicable rules of private international law under which rights of custody established under the law of a third State are recognised in the EEA EFTA State or in the United Kingdom, in particular as regards the best interests of the child and without prejudice to the normal operation of such applicable rules of private international law;

(f) family members who resided in the host State in accordance with Articles 12 and 13, Article 16(2) and Articles 17 and 18 of Directive 2004/38/EC before the end of the transition period and continue to reside there thereafter.

2. Persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC whose residence was facilitated by the host State in accordance with its national legislation before the end of the transition period in accordance with Article 3(2) of that Directive shall retain their right of residence in the host State in accordance with this Part, provided that they continue to reside in the host State thereafter.

3. Paragraph 2 shall also apply to persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC who have applied for facilitation of entry and residence before the end of the transition period, and whose residence is being facilitated by the host State in accordance with its national legislation thereafter.

4. Without prejudice to any right to residence which the persons concerned may have in their own right, the host State shall, in accordance with its national legislation and in accordance with point (b) of Article 3(2) of Directive 2004/38/EC, facilitate entry and residence for the partner with whom the person referred to in points (a) to

(d) of paragraph 1 of this Article has a durable relationship, duly attested, where that partner resided outside the host State before the end of the transition period, provided that the relationship was durable before the end of the transition period and continues at the time the partner seeks residence under this Part.

5. In the cases referred to in paragraphs 3 and 4, the host State shall undertake an extensive examination of the personal circumstances of the persons concerned and shall justify any denial of entry or residence to such persons.

## ARTICLE 10

### **Continuity of Residence**

Continuity of residence for the purposes of Articles 8 and 9 shall not be affected by absences as referred to in Article 14(2) of this Agreement.

The right of permanent residence acquired under Directive 2004/38/EC before the end of the transition period shall not be treated as lost through absence from the host State for a period specified in Article 14(3).

## ARTICLE 11

### **Non-discrimination**

Within the scope of this Part, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality within the meaning of Article 4 of the EEA Agreement shall be prohibited in the host State and the State of work in respect of the persons referred to in Article 9 of this Agreement.

## **TITLE II**

### **RIGHTS AND OBLIGATIONS**

#### **CHAPTER 1**

##### **RIGHTS RELATED TO RESIDENCE, RESIDENCE DOCUMENTS**

###### **ARTICLE 12**

###### **Residence Rights**

1. EEA EFTA nationals and United Kingdom nationals shall have the right to reside in the host State under the limitations and conditions as set out in Articles 28 and 31 of the EEA Agreement and in Article 6(1), points (a), (b) or (c) of Article 7(1), Article 7(3), Article 14, Article 16(1) or Article 17(1) of Directive 2004/38/EC.
2. Family members who are either EEA EFTA nationals or United Kingdom nationals shall have the right to reside in the host State as set out in Article 6(1), point (d) of Article 7(1), Article 12(1) or (3), Article 13(1), Article 14, Article 16(1) or Article 17(3) and (4) of Directive 2004/38/EC, subject to the limitations and conditions set out in those provisions.
3. Family members who are neither EEA EFTA nationals nor United Kingdom nationals shall have the right to reside in the host State as set out in Article 6(2), Article 7(2), Article 12(2) or (3), Article 13(2), Article 14, Article 16(2), Article 17(3) or (4) or Article 18 of Directive 2004/38/EC, subject to the limitations and conditions set out in those provisions.
4. The host State may not impose any limitations or conditions for obtaining, retaining or losing residence rights on the persons referred to in paragraphs 1, 2 and 3, other than those provided for in this Title. There shall be no discretion in applying the limitations and conditions provided for in this Title, other than in favour of the person concerned.

###### **ARTICLE 13**

###### **Right of Exit and of Entry**

1. EEA EFTA nationals and United Kingdom nationals, their respective family members and other persons, who reside in the territory of the host State in accordance with the conditions set out in this Title shall have the right to leave the host State and the right to enter it, as set out in Article 4(1) and the first subparagraph of Article 5(1) of Directive 2004/38/EC, with a valid passport or national identity card in the case of EEA EFTA nationals and United Kingdom nationals, and with a valid

passport in the case of their respective family members and other persons who are not EEA EFTA nationals or United Kingdom nationals.

Five years after the end of the transition period, the host State may decide no longer to accept national identity cards for the purposes of entry to or exit from its territory if such cards do not include a chip that complies with the applicable International Civil Aviation Organisation standards related to biometric identification.

2. No exit visa, entry visa or equivalent formality shall be required of holders of a valid document issued in accordance with Article 17 or 25 of this Agreement.

3. Where the host State requires family members who join the EEA EFTA national or United Kingdom national after the end of the transition period to have an entry visa, the host State shall grant such persons every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible, and on the basis of an accelerated procedure.

## ARTICLE 14

### **Right of Permanent Residence**

1. EEA EFTA nationals and United Kingdom nationals, and their respective family members, who have resided legally in the host State in accordance with the EEA Agreement for a continuous period of 5 years or for the period specified in Article 17 of Directive 2004/38/EC, shall have the right to reside permanently in the host State under the conditions set out in Articles 16, 17 and 18 of Directive 2004/38/EC. Periods of legal residence or work in accordance with provisions of the EEA Agreement before and after the end of the transition period shall be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence.

2. Continuity of residence for the purposes of acquisition of the right of permanent residence shall be determined in accordance with Article 16(3) and Article 21 of Directive 2004/38/EC.

3. Once acquired, the right of permanent residence shall be lost only through absence from the host State for a period exceeding 5 consecutive years.

## ARTICLE 15

### **Accumulation of Periods**

EEA EFTA nationals and United Kingdom nationals, and their respective family members, who before the end of the transition period resided legally in the host State in accordance with the conditions of Article 7 of Directive 2004/38/EC for a period of less than 5 years, shall have the right to acquire the right to reside permanently

under the conditions set out in Article 14 of this Agreement once they have completed the necessary periods of residence. Periods of legal residence or work in accordance with provisions of the EEA Agreement before and after the end of the transition period shall be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence.

## ARTICLE 16

### **Status and Changes**

1. The right of EEA EFTA nationals and United Kingdom nationals, and their respective family members, to avail themselves of the rights set out in this Part shall not be affected when they change status, for example between student, worker, self-employed person and economically inactive person. Persons who, at the end of the transition period, enjoy a right of residence in their capacity as family members of EEA EFTA nationals or United Kingdom nationals, cannot become persons referred to in points (a) to (d) of Article 9(1).
2. The rights provided for in this Title for the family members who are dependants of EEA EFTA nationals or United Kingdom nationals before the end of the transition period, shall be maintained even after they cease to be dependants.

## ARTICLE 17

### **Issuance of Residence Documents**

1. The host State may require EEA EFTA nationals or United Kingdom nationals, their respective family members and other persons, who reside in its territory in accordance with the conditions set out in this Title, to apply for a new residence status which confers the rights under this Title and a document evidencing such status which may be in a digital form.

Applying for such a residence status shall be subject to the following conditions:

- (a) the purpose of the application procedure shall be to verify whether the applicant is entitled to the residence rights set out in this Title. Where that is the case, the applicant shall have a right to be granted the residence status and the document evidencing that status;
- (b) the deadline for submitting the application shall not be less than 6 months from the end of the transition period, for persons residing in the host State before the end of the transition period.

For persons who have the right to commence residence after the end of the transition period in the host State in accordance with this Title, the deadline for

submitting the application shall be 3 months after their arrival or the expiry of the deadline referred to in the first subparagraph, whichever is later.

A certificate of application for the residence status shall be issued immediately;

- (c) the deadline for submitting the application referred to in point (b) shall be extended automatically by 1 year where an EEA EFTA State has notified the United Kingdom, or the United Kingdom has notified the EEA EFTA States, that technical problems prevent the host State either from registering the application or from issuing the certificate of application referred to in point (b). The host State shall publish that notification and shall provide appropriate public information for the persons concerned in good time;
- (d) where the deadline for submitting the application referred to in point (b) is not respected by the persons concerned, the competent authorities shall assess all the circumstances and reasons for not respecting the deadline and shall allow those persons to submit an application within a reasonable further period of time if there are reasonable grounds for the failure to respect the deadline;
- (e) the host State shall ensure that any administrative procedures for applications are smooth, transparent and simple, and that any unnecessary administrative burdens are avoided;
- (f) application forms shall be short, simple, user friendly and adapted to the context of this Agreement; applications made by families at the same time shall be considered together;
- (g) the document evidencing the status shall be issued free of charge or for a charge not exceeding that imposed on nationals of the host State for the issuing of similar documents;
- (h) persons who, before the end of the transition period, hold a valid permanent residence document issued under Article 19 or 20 of Directive 2004/38/EC or hold a valid domestic immigration document conferring a permanent right to reside in the host State, shall have the right to exchange that document within the period referred to in point (b) of this paragraph for a new residence document upon application after a verification of their identity, a criminality and security check in accordance with point (p) of this paragraph and confirmation of their ongoing residence; such new residence documents shall be issued free of charge;
- (i) the identity of the applicants shall be verified through the presentation of a valid passport or national identity card for EEA EFTA nationals and United Kingdom nationals, and through the presentation of a valid

passport for their respective family members and other persons who are not EEA EFTA nationals or United Kingdom nationals; the acceptance of such identity documents shall not be made conditional upon any criteria other than that of the validity of the document. Where the identity document is retained by the competent authorities of the host State while the application is pending, the host State shall return that document upon application without delay, before the decision on the application has been taken;

- (j) supporting documents other than identity documents, such as civil status documents, may be submitted in copy. Originals of supporting documents may be required only in specific cases where there is a reasonable doubt as to the authenticity of the supporting documents submitted;
- (k) the host State may only require EEA EFTA nationals and United Kingdom nationals to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Article 8(3) of Directive 2004/38/EC:
  - (i) where they reside in the host State in accordance with point (a) of Article 7(1) of Directive 2004/38/EC as workers or self-employed, a confirmation of engagement from the employer or a certificate of employment, or proof that they are self-employed;
  - (ii) where they reside in the host State in accordance with point (b) of Article 7(1) of Directive 2004/38/EC as economically inactive persons, evidence that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host State during their period of residence and that they have comprehensive sickness insurance cover in the host State; or
  - (iii) where they reside in the host State in accordance with point (c) of Article 7(1) of Directive 2004/38/EC as students, proof of enrolment at an establishment accredited or financed by the host State on the basis of its legislation or administrative practice, proof of comprehensive sickness insurance cover, and a declaration or equivalent means of proof, that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host State during their period of residence. The host State may not require such declarations to refer to any specific amount of resources.

With regard to the condition of sufficient resources, Article 8(4) of Directive 2004/38/EC shall apply;

- (l) the host State may only require family members who fall under point (e)(i) of Article 9(1) or Article 9(2) or (3) of this Agreement and who reside in the host State in accordance with point (d) of Article 7(1) or (2) of Directive 2004/38/EC to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Article 8(5) or 10(2) of Directive 2004/38/EC:
- (i) a document attesting to the existence of a family relationship or a registered partnership;
  - (ii) the registration certificate or, in the absence of a registration system, any other proof that the EEA EFTA national or the United Kingdom national with whom they reside actually resides in the host State;
  - (iii) for direct descendants who are under the age of 21 or who are dependants and dependent direct relatives in the ascending line, and for those of the spouse or registered partner, documentary evidence that the conditions set out in point (c) or (d) of Article 2(2) of Directive 2004/38/EC are fulfilled;
  - (iv) for the persons referred to in Article 9(2) or (3) of this Agreement, a document issued by the relevant authority in the host State in accordance with Article 3(2) of Directive 2004/38/EC.

With regard to the condition of sufficient resources as concerns family members who are themselves EEA EFTA nationals or United Kingdom nationals, Article 8(4) of Directive 2004/38/EC shall apply;

- (m) the host State may only require family members who fall under point (e)(ii) of Article 9(1) or Article 9(4) of this Agreement to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Articles 8(5) and 10(2) of Directive 2004/38/EC:
- (i) a document attesting to the existence of a family relationship or of a registered partnership;
  - (ii) the registration certificate or, in the absence of a registration system, any other proof of residence in the host State of the EEA EFTA national or of the United Kingdom national whom they are joining in the host State;
  - (iii) for spouses or registered partners, a document attesting to the existence of a family relationship or a registered partnership before the end of the transition period;

- (iv) for direct descendants who are under the age of 21 or who are dependants and dependent direct relatives in the ascending line and those of the spouse or registered partner, documentary evidence that they were related to EEA EFTA nationals or United Kingdom nationals before the end of the transition period and fulfil the conditions set out in point (c) or (d) of Article 2(2) of Directive 2004/38/EC relating to age or dependence;
- (v) for the persons referred to in Article 9(4) of this Agreement, proof that a durable relationship with EEA EFTA nationals or United Kingdom nationals existed before the end of the transition period and continues to exist thereafter;
- (n) for cases other than those set out in points (k), (l) and (m), the host State shall not require applicants to present supporting documents that go beyond what is strictly necessary and proportionate to provide evidence that the conditions relating to the right of residence under this Title have been fulfilled;
- (o) the competent authorities of the host State shall help the applicants to prove their eligibility and to avoid any errors or omissions in their applications; they shall give the applicants the opportunity to furnish supplementary evidence and to correct any deficiencies, errors or omissions;
- (p) criminality and security checks may be carried out systematically on applicants, with the exclusive aim of verifying whether the restrictions set out in Article 19 of this Agreement may be applicable. For that purpose, applicants may be required to declare past criminal convictions which appear in their criminal record in accordance with the law of the State of conviction at the time of the application. The host State may, if it considers this essential, apply the procedure set out in Article 27(3) of Directive 2004/38/EC with respect to enquiries to other States regarding previous criminal records;
- (q) the new residence document shall include a statement that it has been issued in accordance with this Agreement;
- (r) the applicant shall have access to judicial and, where appropriate, administrative redress procedures in the host State against any decision refusing to grant the residence status. The redress procedures shall allow for an examination of the legality of the decision, as well as of the facts and circumstances on which the proposed decision is based. Such redress procedures shall ensure that the decision is not disproportionate.

2. During the period referred to in point (b) of paragraph 1 of this Article and its possible one-year extension under point (c) of that paragraph, all rights provided for in this Part shall be deemed to apply to EEA EFTA nationals or United Kingdom

nationals, their respective family members, and other persons residing in the host State, in accordance with the conditions and subject to the restrictions set out in Article 19.

3. Pending a final decision by the competent authorities on any application referred to in paragraph 1, and pending a final judgment handed down in case of judicial redress sought against any rejection of such application by the competent administrative authorities, all rights provided for in this Part shall be deemed to apply to the applicant, including Article 20 on safeguards and right of appeal, subject to the conditions set out in Article 19(4).

4. Where a host State has chosen not to require EEA EFTA nationals or United Kingdom nationals, their family members, and other persons, residing in its territory in accordance with the conditions set out in this Title, to apply for the new residence status referred to in paragraph 1 as a condition for legal residence, those eligible for residence rights under this Title shall have the right to receive, in accordance with the conditions set out in Directive 2004/38/EC, a residence document, which may be in a digital form, that includes a statement that it has been issued in accordance with this Agreement.

## ARTICLE 18

### **Issuance of Residence Documents during the Transition Period**

1. During the transition period, a host State may allow applications for a residence status or residence document as referred to in Article 17(1) and (4) of this Agreement to be made voluntarily from the date of entry into force of this Agreement.

2. Decisions to accept or refuse such applications shall be taken in accordance with Article 17(1) and (4). Decisions under Article 17(1) shall have no effect until after the end of the transition period.

3. If an application under Article 17(1) is accepted before the end of the transition period, the host State may not withdraw the decision granting the residence status before the end of the transition period on any grounds other than those set out in Chapter VI and Article 35 of Directive 2004/38/EC.

4. If an application is refused before the end of the transition period, the applicant may apply again at any time before the expiry of the period set out in point (b) of Article 17(1).

5. Without prejudice to paragraph 4, the redress procedures under point (r) Article 17(1) shall be available from the date of any decision to refuse an application referred to in paragraph 2 of this Article.

## ARTICLE 19

### **Restrictions of the Rights of Residence and Entry**

1. The conduct of EEA EFTA nationals or United Kingdom nationals, their family members, and other persons, who exercise rights under this Title, where that conduct occurred before the end of the transition period, shall be considered in accordance with Chapter VI of Directive 2004/38/EC.
2. The conduct of EEA EFTA nationals or United Kingdom nationals, their family members, and other persons, who exercise rights under this Title, where that conduct occurred after the end of the transition period, may constitute grounds for restricting the right of residence by the host State or the right of entry in the State of work in accordance with national legislation.
3. The host State or the State of work may adopt the necessary measures to refuse, terminate or withdraw any right conferred by this Title in the case of the abuse of those rights or fraud, as set out in Article 35 of Directive 2004/38/EC. Such measures shall be subject to the procedural safeguards provided for in Article 20 of this Agreement.
4. The host State or the State of work may remove applicants who submitted fraudulent or abusive applications from its territory under the conditions set out in Directive 2004/38/EC, in particular Articles 31 and 35 thereof, even before a final judgment has been handed down in the case of judicial redress sought against any rejection of such an application.

## ARTICLE 20

### **Safeguards and Right of Appeal**

The safeguards set out in Article 15 and Chapter VI of Directive 2004/38/EC shall apply in respect of any decision by the host State that restricts residence rights of the persons referred to in Article 9 of this Agreement.

## ARTICLE 21

### **Related Rights**

In accordance with Article 23 of Directive 2004/38/EC, irrespective of nationality, the family members of an EEA EFTA national or United Kingdom national who have the right of residence or the right of permanent residence in the host State or the State of work shall be entitled to take up employment or self-employment there.

## ARTICLE 22

### **Equal Treatment**

1. In accordance with Article 24 of Directive 2004/38/EC, subject to the specific provisions provided for in this Title and Titles I and IV of this Part, all EEA EFTA nationals or United Kingdom nationals residing on the basis of this Agreement in the territory of the host State shall enjoy equal treatment with the nationals of that State within the scope of this Part. The benefit of this right shall be extended to those family members of EEA EFTA nationals or United Kingdom nationals who have the right of residence or permanent residence.
2. By way of derogation from paragraph 1, the host State shall not be obliged to confer entitlement to social assistance during periods of residence on the basis of Article 6 or point (b) of Article 14(4) of Directive 2004/38/EC, nor shall it be obliged, prior to a person's acquisition of the right of permanent residence in accordance with Article 14 of this Agreement, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status or to members of their families.

## CHAPTER 2

### RIGHTS OF WORKERS AND SELF-EMPLOYED PERSONS

#### ARTICLE 23

##### **Rights of Workers**

1. Subject to the limitations set out in Article 28(3) and (4) of the EEA Agreement, workers in the host State and frontier workers in the State or States of work shall enjoy the rights guaranteed by Article 28 of the EEA Agreement and the rights granted by Regulation (EU) No 492/2011 of the European Parliament and of the Council<sup>5</sup>. These rights include:

- (a) the right not to be discriminated against on grounds of nationality as regards employment, remuneration and other conditions of work and employment;
- (b) the right to take up and pursue an activity in accordance with the rules applicable to the nationals of the host State or the State of work;
- (c) the right to assistance afforded by the employment offices of the host State or the State of work as offered to own nationals;
- (d) the right to equal treatment in respect of conditions of employment and work, in particular as regards remuneration, dismissal and in case of unemployment, reinstatement or re-employment;
- (e) the right to social and tax advantages;
- (f) collective rights;
- (g) the rights and benefits accorded to national workers in matters of housing;
- (h) the right for their children to be admitted to the general educational, apprenticeship and vocational training courses under the same conditions as the nationals of the host State or the State of work, if such children are residing in the territory where the worker works.

2. Where a direct descendant of a worker who has ceased to reside in the host State is in education in that State, the primary carer for that descendant shall have the right to reside in that State until the descendant reaches the age of majority, and after the age of majority if that descendant continues to need the presence and care of the primary carer in order to pursue and complete his or her education.

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<sup>5</sup> Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ L 141, 27.5.2011, p. 1).

3. Employed frontier workers shall enjoy the right to enter and exit the State of work in accordance with Article 13 of this Agreement and shall retain the rights they enjoyed as workers there, provided they are in one of the circumstances set out in points (a), (b), (c) and (d) of Article 7(3) of Directive 2004/38/EC, even where they do not move their residence to the State of work.

## ARTICLE 24

### **Rights of Self-employed Persons**

1. Subject to the limitations set out in Articles 32 and 33 of the EEA Agreement, self-employed persons in the host State and self-employed frontier workers in the State or States of work shall enjoy the rights guaranteed by Articles 31 and 124 of the EEA Agreement. These rights include:

- (a) the right to take up and pursue activities as self-employed persons and to set up and manage undertakings under the conditions laid down by the host State for its own nationals, as set out in Article 31 of the EEA Agreement;
  - (b) the rights as set out in points (c) to (h) of Article 23(1) of this Agreement.
2. Article 23(2) shall apply to direct descendants of self-employed workers.
3. Article 23(3) shall apply to self-employed frontier workers.

## ARTICLE 25

### **Issuance of a Document identifying Frontier Workers' Rights**

The State of work may require EEA EFTA nationals and United Kingdom nationals who have rights as frontier workers under this Title to apply for a document certifying that they have such rights under this Title. Such EEA EFTA nationals and United Kingdom nationals shall have the right to be issued with such a document.

## CHAPTER 3

### PROFESSIONAL QUALIFICATIONS

#### ARTICLE 26

##### **Recognised Professional Qualifications<sup>6</sup>**

1. The recognition, before the end of the transition period, of professional qualifications, as defined in point (b) of Article 3(1) of Directive 2005/36/EC of the European Parliament and of the Council<sup>7</sup>, of EEA EFTA nationals or United Kingdom nationals, and their family members, by their host State or their State of work shall maintain its effects in the respective State, including the right to pursue their profession under the same conditions as its nationals, where such recognition was made in accordance with any of the following provisions:

- (a) Title III of Directive 2005/36/EC in respect of the recognition of professional qualifications in the context of the exercise of the freedom of establishment, whether such recognition fell under the general system for the recognition of evidence of training, the system for the recognition of professional experience or the system for the recognition on the basis of coordination of minimum training conditions;
- (b) Article 10(1) and (3) of Directive 98/5/EC of the European Parliament and of the Council<sup>8</sup> in respect of gaining admission to the profession of lawyer in the host State or State of work;
- (c) Article 14 of Directive 2006/43/EC of the European Parliament and of the Council<sup>9</sup> in respect of the approval of statutory auditors;
- (d) Council Directive 74/556/EEC<sup>10</sup> in respect of the acceptance of evidence of the knowledge and ability necessary to take up or pursue the activities of self-employed persons and of intermediaries engaging in the trade and

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<sup>6</sup> This Article is without prejudice to the Declaration annexed to EEA Council Decision No 1/95 concerning nationals of the Principality of Liechtenstein who hold higher-education diplomas awarded on completion of professional education and training of at least three years' duration conferred in a third country (OJ L 86, 20.4.1995, p. 58).

<sup>7</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

<sup>8</sup> Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (OJ L 77, 14.3.1998, p. 36).

<sup>9</sup> Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

<sup>10</sup> Council Directive 74/556/EEC of 4 June 1974 laying down detailed provisions concerning transitional measures relating to activities, trade in and distribution of toxic products and activities entailing the professional use of such products including activities of intermediaries (OJ L 307, 18.11.1974, p. 1).

distribution of toxic products or activities involving the professional use of toxic products.

2. Recognitions of professional qualifications for the purposes of point (a) of paragraph 1 of this Article shall include:

- (a) recognitions of professional qualifications which have benefited from Article 3(3) of Directive 2005/36/EC;
- (b) decisions granting partial access to a professional activity in accordance with Article 4f of Directive 2005/36/EC;
- (c) recognitions of professional qualifications for establishment purposes made under Article 4d of Directive 2005/36/EC.

## ARTICLE 27

### **Ongoing Procedures on the Recognition of Professional Qualifications**

Article 4, Article 4d in respect of recognitions of professional qualifications for establishment purposes, Article 4f and Title III of Directive 2005/36/EC, Article 10(1), (3) and (4) of Directive 98/5/EC, Article 14 of Directive 2006/43/EC and Directive 74/556/EEC shall apply in respect of the examination by a competent authority of the host State or State of work of any application for the recognition of professional qualifications introduced before the end of the transition period by EEA EFTA nationals or United Kingdom nationals and in respect of the decision on any such application.

Articles 4a, 4b and 4e of Directive 2005/36/EC shall also apply to the extent relevant for the completion of the procedures for the recognitions of professional qualifications for establishment purposes under Article 4d of that Directive.

The United Kingdom and the EEA EFTA States shall put in place any necessary arrangements required as a consequence of the application of Article 8 of the EU-UK Withdrawal Agreement (Access to networks, information systems and databases) to ensure that procedures under this Article may be completed.

## ARTICLE 28

### **Administrative Cooperation on Recognition of Professional Qualifications**

With regard to the pending applications referred to in Article 27, the United Kingdom and the EEA EFTA States shall cooperate in order to facilitate the application of Article 27. Cooperation may include the exchange of information, including information on disciplinary action or criminal sanctions taken or any other serious

and specific circumstances which are likely to have consequences for the pursuit of the activities falling under the Directives referred to in Article 27.

## **TITLE III**

### **COORDINATION OF SOCIAL SECURITY SYSTEMS**

#### ARTICLE 29

##### **Persons Covered**

1. This Title shall apply to the following persons:
  - (a) EEA EFTA nationals who are subject to the legislation of the United Kingdom at the end of the transition period, as well as their family members and survivors;
  - (b) United Kingdom nationals who are subject to the legislation of an EEA EFTA State at the end of the transition period, as well as their family members and survivors;
  - (c) EEA EFTA nationals who reside in the United Kingdom and are subject to the legislation of an EEA EFTA State at the end of the transition period, as well as their family members and survivors;
  - (d) United Kingdom nationals who reside in an EEA EFTA State, and are subject to the legislation of the United Kingdom at the end of the transition period, as well as their family members and survivors;
  - (e) persons who do not fall within points (a) to (d) but are:
    - (i) EEA EFTA nationals who pursue an activity as an employed or self-employed person in the United Kingdom at the end of the transition period, and who, based on Title II of Regulation (EC) No 883/2004 of the European Parliament and of the Council<sup>11</sup>, are subject to the legislation of an EEA EFTA State, as well as their family members and survivors; or
    - (ii) United Kingdom nationals who pursue an activity as employed or self-employed person in one or more EEA EFTA States at the end of the transition period, and who, based on Title II of Regulation (EC) No 883/2004, are subject to the legislation of the United Kingdom, as well as their family members and survivors;
  - (f) stateless persons and refugees, residing in an EEA EFTA State or in the United Kingdom, who are in one of the situations described in points (a) to (e), as well as their family members and survivors.

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<sup>11</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

2. The persons referred to in paragraph 1 shall be covered for as long as they continue without interruption to be in one of the situations set out in that paragraph involving both an EEA/EFTA State and the United Kingdom at the same time.

3. This Title shall also apply to persons who do not, or who no longer, fall within points (a) to (e) of paragraph 1 of this Article but who fall within Article 9 of this Agreement, as well as their family members and survivors.

4. The persons referred to in paragraph 3 shall be covered for as long as they continue to have a right to reside in the host State under Article 12 of this Agreement, or a right to work in their State of work under Article 23 or 24 of this Agreement.

5. Where this Article refers to family members and survivors, those persons shall be covered by this Title only to the extent that they derive rights and obligations in that capacity under Regulation (EC) No 883/2004.

## ARTICLE 30

### Social Security Coordination Rules

1. The rules and objectives set out in Article 29 of the EEA Agreement, Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council<sup>12</sup>, shall apply to the persons covered by this Title.

The EEA/EFTA States and the United Kingdom shall take due account of Decisions and take note of Recommendations of the Administrative Commission for the Coordination of Social Security Systems attached to the European Commission, set up under Regulation (EC) No 883/2004 (“Administrative Commission”) listed in Part I of Annex I to this Agreement.

2. By way of derogation from Article 8 of this Agreement, for the purposes of this Title, the definitions in Article 1 of Regulation (EC) No 883/2004 shall apply.

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<sup>12</sup> Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

## ARTICLE 31

### Special Situations Covered

1. The following rules shall apply in the following situations to the extent set out in this Article, insofar as they relate to persons not or no longer covered by Article 29:

- (a) the following persons shall be covered by this Title for the purposes of reliance on and aggregation of periods of insurance, employment, self-employment or residence, including rights and obligations deriving from such periods in accordance with Regulation (EC) No 883/2004:
  - (i) EEA EFTA nationals, as well as stateless persons and refugees residing in an EEA EFTA State, who have been subject to the legislation of the United Kingdom before the end of the transition period, as well as their family members and survivors;
  - (ii) United Kingdom nationals, as well as stateless persons and refugees residing in the United Kingdom, who have been subject to the legislation of an EEA EFTA State before the end of the transition period, as well as their family members and survivors;for the purposes of the aggregation of periods, periods completed both before and after the end of the transition period shall be taken into account in accordance with Regulation (EC) No 883/2004;
- (b) the rules set out in Articles 20 and 27 of Regulation (EC) No 883/2004 shall continue to apply to persons who, before the end of the transition period, had requested authorisation to receive a course of planned health care treatment pursuant to Regulation (EC) No 883/2004, until the end of the treatment. The corresponding reimbursement procedures shall also apply even after the treatment ends. Such persons and the accompanying persons shall enjoy the right to enter and exit the State of treatment in accordance with Article 13, *mutatis mutandis*;
- (c) the rules set out in Articles 19 and 27 of Regulation (EC) No 883/2004 shall continue to apply to persons who are covered by Regulation (EC) No 883/2004 and who are on a stay at the end of the transition period in an EEA EFTA State or the United Kingdom, until the end of their stay. The corresponding reimbursement procedures shall also apply even after the stay or treatment ends;
- (d) the rules set out in Articles 67, 68 and 69 of Regulation (EC) No 883/2004 shall continue to apply, for as long as the conditions are fulfilled, to awards of family benefits to which there is entitlement at the end of the transition period for the following persons:

- (i) EEA EFTA nationals, stateless persons and refugees residing in an EEA EFTA State, who are subject to the legislation of an EEA EFTA State and have family members residing in the United Kingdom at the end of the transition period;
  - (ii) United Kingdom nationals, as well as stateless persons and refugees residing in the United Kingdom, who are subject to the legislation of the United Kingdom and have family members residing in an EEA EFTA State at the end of the transition period;
- (e) in the situations set out in point (d)(i) and (ii) of this paragraph, for any persons who have rights as family members at the end of the transition period under Regulation (EC) No 883/2004, such as derived rights for sickness benefits in kind, that Regulation and the corresponding provisions of Regulation (EC) No 987/2009 shall continue to apply for as long as the conditions provided therein are fulfilled.
2. The provisions of Chapter I of Title III of Regulation (EC) No 883/2004 as regards sickness benefits shall apply to persons receiving benefits under point (a) of paragraph 1 of this Article.

This paragraph shall apply *mutatis mutandis* as regards family benefits based on Articles 67, 68 and 69 of Regulation (EC) No 883/2004.

## ARTICLE 32

### **Union Citizens**

1. The provisions of this Title applicable to EEA EFTA nationals shall apply to Union citizens, provided that:
- (a) the Union has concluded and applies a corresponding agreement with the United Kingdom which applies to EEA EFTA nationals; and
  - (b) the Union has concluded and applies a corresponding agreement with the EEA EFTA States which applies to United Kingdom nationals.
2. Upon notification from the United Kingdom and from the EEA EFTA States of the date of entry into force of the agreements referred to in paragraph 1, the Joint Committee established by Article 65 of this Agreement (“Joint Committee”) shall set the date from which the provisions of this Title shall apply to Union citizens.

## ARTICLE 33

### **Reimbursement, Recovery and Offsetting**

The provisions of Regulations (EC) No 883/2004 and (EC) No 987/2009 on reimbursement, recovery and offsetting shall continue to apply in relation to events, in so far as they relate to persons not covered by Article 29, that:

- (a) occurred before the end of the transition period; or
- (b) occur after the end of the transition period and relate to persons who were covered by Articles 29 or 31 when the event occurred.

## ARTICLE 34

### **Development of Law and Adaptations of Acts incorporated into and in force under the EEA Agreement**

1. Where Regulations (EC) No 883/2004 and (EC) No 987/2009 are amended or replaced after the end of the transition period and where amendments or replacements to those Regulations are incorporated into and in force under the EEA Agreement, references to those Regulations in this Agreement shall be read as referring to those Regulations as amended or replaced under the EEA Agreement, in accordance with the acts listed in Part II of Annex I to this Agreement.

The Joint Committee shall revise Part II of Annex I to this Agreement in order to align it to any act amending or replacing Regulations (EC) No 883/2004 and (EC) No 987/2009, provided that:

- (a) the EU-UK Withdrawal Agreement has been aligned accordingly; and
- (b) the act has been incorporated into and is in force under the EEA Agreement.

The Joint Committee shall revise Annex I as soon as the second of the events in points (a) and (b) has been completed.

2. Regulations (EC) No 883/2004 and (EC) No 987/2009 shall, for the purposes of this Agreement, be understood as comprising the adaptations listed in Part III of Annex I to this Agreement. As soon as possible after the adoption of any changes in domestic provisions of relevance to Part III of Annex I to this Agreement, the United Kingdom shall inform the EEA/EFTA States thereof within the Joint Committee.

3. The Decisions and Recommendations of the Administrative Commission shall, for the purposes of this Agreement, be understood as comprising the decisions and recommendations listed in Part I of Annex I. The Joint Committee shall amend Part I of Annex I to reflect any new Decision or Recommendation adopted by the

Administrative Commission and incorporated into and in force under the EEA Agreement. To that end, as soon as possible after the adoption of any such decision of the EEA Joint Committee, the EEA EFTA States shall inform the United Kingdom thereof within the Joint Committee. Such amendments shall be made by the Joint Committee on a proposal of the EEA EFTA States or the United Kingdom.

## **TITLE IV**

### **OTHER PROVISIONS**

#### **ARTICLE 35**

##### **Publicity**

The EEA EFTA States and the United Kingdom shall disseminate information concerning the rights and obligations of persons covered by this Part, in particular by means of awareness-raising campaigns conducted, as appropriate, through national and local media and other means of communication.

#### **ARTICLE 36**

##### **More Favourable Provisions**

This Part shall not affect any laws, regulations or administrative provisions applicable in a host State or a State of work which would be more favourable to the persons concerned. This paragraph shall not apply to Title III.

#### **ARTICLE 37**

##### **Life-long Protection**

The persons covered by this Part shall enjoy the rights provided for in the relevant Titles of this Part for their lifetime, unless they cease to meet the conditions set out in those Titles.

**PART THREE**

**SEPARATION PROVISIONS**

**TITLE I**

**GOODS PLACED ON THE MARKET**

**ARTICLE 38**

**Definitions**

For the purposes of this Title, the following definitions shall apply:

- (a) “making available on the market” means any supply of a good for distribution, consumption or use on the market in the course of a commercial activity, whether in return for payment or free of charge;
- (b) “placing on the market” means the first making available of a good on the market of an EEA EFTA State or the United Kingdom;
- (c) “supply of a good for distribution, consumption or use” means that an existing and individually identifiable good, after the stage of manufacturing has taken place, is the subject matter of a written or verbal agreement between two or more legal or natural persons for the transfer of ownership, any other property right, or possession concerning the good in question, or is the subject matter of an offer to a legal or natural person or persons to conclude such an agreement;
- (d) “putting into service” means the first use of a good within the EEA EFTA States or the United Kingdom by the end user for the purposes for which it was intended or, in the case of marine equipment, placing on board;
- (e) “market surveillance” means the activities carried out and measures taken by market surveillance authorities to ensure that goods comply with the applicable requirements and do not endanger health, safety or any other aspect of public interest protection;
- (f) “market surveillance authority” means an authority of an EEA EFTA State or of the United Kingdom responsible for carrying out market surveillance on its territory;
- (g) “conditions for the marketing of goods” means requirements concerning the characteristics of goods such as levels of quality, performance, safety or dimensions, including on the composition of such goods or on the terminology, symbols, testing and testing methods, packaging, marking,

labelling, and conformity assessment procedures used in relation to such goods; the term also covers requirements concerning production methods and processes, where these have an effect on product characteristics;

- (h) “conformity assessment body” means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
- (i) “notified body” means a conformity assessment body authorised to carry out third-party conformity assessment tasks under the provisions of the EEA Agreement harmonising the conditions for the marketing of goods;
- (j) “animal products” comprises the following:
  - (i) products of animal origin:
    - (a) food of animal origin, including honey and blood;
    - (b) live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods, intended for human consumption; and
    - (c) animals other than those referred to in point (j)(i)(b) intended to be prepared with a view to being supplied live to the final consumer;
  - (ii) animal by-products: entire bodies or parts of animals, products of animal origin or other products obtained from animals, which are not intended for human consumption, excluding germinal products;
  - (iii) derived products: products obtained from one or more treatments, transformations or steps in the processing of animal by-products;
  - (iv) feed of animal origin; and
  - (v) food and feed containing products of animal origin.

## ARTICLE 39

### **Continued Circulation of Goods placed on the Market**

1. Any good that was lawfully placed on the market in an EEA EFTA State or the United Kingdom before the end of the transition period may:
  - (a) be further made available on the market of the EEA EFTA States or of the United Kingdom and circulate between these two markets until it reaches its end user;
  - (b) where provided in the applicable provisions of the EEA Agreement, be put into service in the EEA EFTA States or in the United Kingdom.
2. The requirements set out in Articles 11 and 12 of the EEA Agreement and the relevant provisions of the EEA Agreement governing the marketing of goods, including the conditions for the marketing of goods, applicable to the goods concerned shall apply in respect of the goods referred to in paragraph 1.
3. Paragraph 1 shall apply to all existing and individually identifiable goods within the meaning of Part II of the EEA Agreement, with the exception of the circulation between the EEA EFTA States' market and the United Kingdom's market or vice-versa of:
  - (a) live animals and germinal products;
  - (b) animal products.
4. In respect of a movement of live animals or of germinal products between an EEA EFTA State and the United Kingdom, or vice-versa, the provisions of the EEA Agreement listed in Annex II to this Agreement shall apply, provided that the date of departure was before the end of the transition period.
5. This Article shall be without prejudice to the possibility for the United Kingdom or an EEA EFTA State to take measures to prohibit or restrict the making available on its market of a good referred to in paragraph 1, or a category of such goods, where and to the extent permitted by provisions of the EEA Agreement.
6. The provisions of this Title shall be without prejudice to any applicable rules on modalities of sale, intellectual property, customs procedures, tariffs and taxes.
7. Nothing in this Article shall require any Party to afford more favourable treatment to goods that fall under this Article than those goods would have been entitled to under the EEA Agreement before the end of the transition period.

## ARTICLE 40

### **Proof of Placing on the Market**

Where an economic operator relies on Article 39(1) with respect to a specific good, that operator shall bear the burden of proof of demonstrating, on the basis of any relevant document, that the good was placed on the market of an EEA EFTA State or the United Kingdom before the end of the transition period.

## ARTICLE 41

### **Market Surveillance**

1. The market surveillance authorities of the EEA EFTA States and the market surveillance authorities of the United Kingdom shall exchange without delay any relevant information collected with regard to the goods referred to in Article 39(1) in the context of their respective market surveillance activities. They shall, in particular, communicate to each other and to the EFTA Surveillance Authority any information relating to those goods presenting a serious risk, as well as any measures taken in relation to non-compliant goods, including relevant information drawn from networks, information systems and databases established under the provisions of the EEA Agreement or United Kingdom law in relation to those goods.

2. The EEA EFTA States and the United Kingdom shall transmit without delay any request from the market surveillance authorities of the United Kingdom or of an EEA EFTA State, respectively, to a conformity assessment body established in their territory, where that request concerns a conformity assessment carried out by that body in its capacity as notified body before the end of the transition period. The EEA EFTA States and the United Kingdom shall ensure that any such request is promptly addressed by the conformity assessment body.

## ARTICLE 42

### **Transfer of Files and Documents relating to Ongoing Procedures**

The United Kingdom shall transfer without delay to the competent authority of an EEA EFTA State designated in accordance with the procedures provided for in the applicable provisions of the EEA Agreement all relevant files or documents in relation to assessments, approvals and authorisations ongoing on the day before the date of entry into force of this Agreement and led by a United Kingdom competent authority in accordance with Regulation (EU) No 528/2012<sup>13</sup>, Regulation (EC) No

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<sup>13</sup> Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

1107/2009<sup>14</sup>, Directive 2001/83/EC<sup>15</sup> and Directive 2001/82/EC<sup>16</sup> of the European Parliament and of the Council.

## ARTICLE 43

### **Making available of Information in relation to Past Authorisation Procedures for Medicinal Products**

1. The United Kingdom shall, upon a reasoned request from an EEA EFTA State or the European Medicines Agency, make available without delay the marketing authorisation dossier of a medicinal product authorised by a competent authority of the United Kingdom before the end of the transition period, where that dossier is necessary for the assessment of a marketing authorisation application in accordance with Articles 10 and 10a of Directive 2001/83/EC or Articles 13 and 13a of Directive 2001/82/EC.
2. An EEA EFTA State shall, upon a reasoned request from the United Kingdom, make available without delay the marketing authorisation dossier of a medicinal product authorised by a competent authority of that EEA EFTA State before the end of the transition period, where that dossier is necessary for the assessment of a marketing authorisation application in the United Kingdom in accordance with the United Kingdom's legislative requirements, to the extent that those legislative requirements replicate the circumstances of Articles 10 and 10a of Directive 2001/83/EC or Articles 13 and 13a of Directive 2001/82/EC.

## ARTICLE 44

### **Making available of Information held by Notified Bodies established in the United Kingdom or in an EEA EFTA State**

1. The United Kingdom shall ensure that information held by a conformity assessment body established in the United Kingdom in relation to its activities as a notified body under the provisions of the EEA Agreement before the end of the transition period is made available at the request of the certificate holder, without delay, to a notified body established in an EEA EFTA State as indicated by the certificate holder.

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<sup>14</sup> Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market (OJ L 309, 24.11.2009, p. 1).

<sup>15</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

<sup>16</sup> Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products (OJ L 311, 28.11.2001, p. 1).

2. The EEA EFTA States shall ensure that information held by a notified body established in the EEA EFTA State concerned in relation to its activities before the end of the transition period is made available at the request of the certificate holder, without delay, to a conformity assessment body established in the United Kingdom as indicated by the certificate holder.

## ARTICLE 45

### **Goods in Transit or Storage**

Provisions of the EEA Agreement and of any other agreements regulating customs procedures or customs treatment in force on the last day of the transition period shall be applied for up to 12 months after that date to goods which are either in transit or in storage in a customs warehouse or free zone under customs control on the last day of the transition period. For such goods, proof of origin may be provided retrospectively up to 12 months after the end of the transition period, provided that the provisions of Protocol 4 of the EEA Agreement and in particular its Article 12 (Direct transport) have been complied with.

## TITLE II

### INTELLECTUAL PROPERTY

#### ARTICLE 46

##### **Continued Protection in the United Kingdom of Geographical Indications**

Where a geographical indication within the meaning of Regulation (EC) No 110/2008 of the European Parliament and of the Council<sup>17</sup>, pertaining to a product of an EEA EFTA State, is protected on the last day of the transition period by virtue of that Regulation, those persons who are entitled to use the geographical indication concerned shall be entitled, as from the end of the transition period, without any re-examination, to use the geographical indication concerned in the United Kingdom, which shall be granted at least the same level of protection under the law of the United Kingdom as under the following provisions:

- (a) point (i) of Article 4(1) of Directive (EU) 2015/2436 of the European Parliament and of the Council<sup>18</sup>; and
- (b) in view of the geographical indication concerned, the first subparagraph of Article 15(3), Article 16 and Article 23(1) of Regulation (EC) No 110/2008 and, in so far as to the extent related to compliance with those provisions of that Regulation, Article 24(1) of that Regulation.

Where a geographical indication referred to in the first subparagraph ceases to be protected in the EEA EFTA States after the end of the transition period, the first subparagraph shall cease to apply in respect of that geographical indication.

The first subparagraph shall not apply where protection in the EEA EFTA States is derived from international agreements, other than the EEA Agreement, to which the EEA EFTA States are party.

This Article shall apply unless and until an agreement that supersedes this Article enters into force or becomes applicable.

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<sup>17</sup> Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

<sup>18</sup> Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ L 336, 23.12.2015, p. 1).

## ARTICLE 47

### **Registration Procedure**

1. The registration, grant or protection pursuant to Article 46 of this Agreement shall be carried out free of charge by the relevant entities in the United Kingdom, using the data available in the registries of the European Commission. Annex III to Regulation (EC) No 110/2008 shall be considered a registry for the purpose of this Article.
2. For the purposes of paragraph 1, those persons who are entitled to use a geographical indication referred to in Article 46 shall not be required to introduce an application or to undertake any particular administrative procedure.

## ARTICLE 48

### **Continued Protection of Databases**

1. The holder of a right in relation to a database in respect of the United Kingdom in accordance with Article 7 of Directive 96/9/EC of the European Parliament and of the Council<sup>19</sup> which arose before the end of the transition period shall, in relation to that database, maintain an enforceable intellectual property right in the United Kingdom, under the law of the United Kingdom, that affords the same level of protection as that provided for in Directive 96/9/EC, provided that the holder of that right continues to comply with the requirements of Article 11 of that Directive. The term of protection of that right under the law of the United Kingdom shall be at least equal to the remaining period of protection under Article 10 of Directive 96/9/EC.

The following persons and undertakings shall be deemed to comply with the requirements of Article 11 of Directive 96/9/EC:

- (a) United Kingdom nationals;
- (b) natural persons with a habitual residence in the United Kingdom;
- (c) undertakings established in the United Kingdom, provided that where such an undertaking has only its registered office in the United Kingdom, its operations are genuinely linked on an ongoing basis with the economy of the United Kingdom or of an EEA EFTA State.

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<sup>19</sup> Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).

## ARTICLE 49

### **Exhaustion of Rights**

Intellectual property rights which were exhausted both in the EEA EFTA States and in the United Kingdom before the end of the transition period under the conditions provided for by the provisions of the EEA Agreement shall remain exhausted both in the EEA EFTA States and in the United Kingdom.

## **TITLE III**

### **ONGOING POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS**

#### **ARTICLE 50**

##### **Ongoing Mutual Assistance in Criminal Matters**

1. In the United Kingdom in situations involving Iceland or Norway, as well as in Iceland and Norway in situations involving the United Kingdom, the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union<sup>20</sup> (“Mutual Assistance Convention”) and the Protocol established by the Council in accordance with Article 34 of the Treaty on European Union to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union<sup>21</sup>, shall apply in respect of mutual legal assistance requests received under the respective instrument before the end of the transition period by the central authority or judicial authority.
2. The competent authorities of the United Kingdom may continue to participate in joint investigation teams involving Iceland or Norway in which they were participating before the end of the transition period, where those investigation teams were set up before the end of the transition period in accordance with Article 13 of the Mutual Assistance Convention.
3. In the United Kingdom in situations involving Liechtenstein, as well as in Liechtenstein in situations involving the United Kingdom, Chapter 2 of Title III of the Convention implementing the Schengen Agreement of 14 June 1985 (“Schengen Implementing Convention”)<sup>22</sup> shall apply in respect of mutual legal assistance requests received under the respective instrument before the end of the transition period by the central authority or judicial authority.

#### **ARTICLE 51**

##### **Ongoing Extradition and Surrender Procedures**

1. Subject to paragraph 2, in the United Kingdom in situations involving Iceland, Liechtenstein or Norway, as well as in Iceland, Liechtenstein and Norway in situations involving the United Kingdom, Chapter 4 of Title III of the Schengen Implementing Convention shall apply to the extent applicable in respect of a request for extradition when the requested person was arrested before the end of the transition period for the purposes of the execution of such a request, irrespective of

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<sup>20</sup> OJ C 197, 12.7.2000, p. 1.

<sup>21</sup> OJ C 326, 21.11.2001, p. 2.

<sup>22</sup> OJ L 239, 22.09.2000, p. 19.

the decision of the executing judicial authority as to whether the requested person is to remain in detention or be provisionally released.

2. In the United Kingdom in situations involving Iceland or Norway, as well as in Iceland and Norway in situations involving the United Kingdom, the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway<sup>23</sup> shall apply in respect of a request for surrender to which Article 35 of that Agreement (transitional provision) applies when the requested person was arrested before the end of the transition period for the purposes of the execution of such a request, irrespective of the decision of the executing judicial authority as to whether the person remains in detention or is provisionally released.

## ARTICLE 52

### **Ongoing Law Enforcement Cooperation Proceedings, Police Cooperation and Exchange of Information**

In the United Kingdom in situations involving Iceland, Liechtenstein or Norway, as well as in Iceland, Liechtenstein and Norway in situations involving the United Kingdom, the following acts shall apply as follows:

- (a) Articles 39 and 40 of the Schengen Implementing Convention, in conjunction with Articles 42 and 43 of the Schengen Implementing Convention shall apply in respect of:
  - (i) requests in accordance with Article 39 of the Schengen Implementing Convention that are received before the end of the transition period by the central body responsible in the Contracting Party for international police cooperation or by competent authorities of the requested Party, or by requested police authorities which do not have the power to deal with the request, but which forward the request to the competent authorities;
  - (ii) requests for assistance in accordance with Article 40(1) of the Schengen Implementing Convention that are received before the end of the transition period by an authority designated by a Contracting Party;
  - (iii) cross-border surveillance that is carried out without prior authorisation in accordance with Article 40(2) of the Schengen Implementing Convention, where that surveillance started before the end of the transition period;

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<sup>23</sup> OJ L 343, 28.11.2014, p. 1.

- (b) Council Framework Decision 2006/960/JHA<sup>24</sup> shall apply in respect of requests that are received before the end of the transition period by the requested competent law enforcement authority;
- (c) Council Decision 2007/533/JHA<sup>25</sup> shall apply in respect of the exchange of supplementary information where there was a hit before the end of the transition period on an alert issued in the Schengen Information System, provided its provisions apply to the United Kingdom on the last day of the transition period.

## ARTICLE 53

### **Confirmation of Receipt or Arrest**

1. The competent issuing or requesting authority may request an acknowledgement of receipt of a request referred to in Article 50(1) and (3), and points (a)(i) and (ii) and (b) of Article 52 within 10 days after the end of the transition period, where it has doubts as to whether such a request was received by the executing or requested authority before the end of the transition period.
2. In the cases referred to in Article 51, where the competent issuing judicial authority has doubts as to whether the requested person was arrested before the end of the transition period, it may request from the competent executing judicial authority a confirmation of the arrest within 10 days after the end of the transition period.
3. Unless confirmation has already been provided pursuant to the applicable provisions, the executing or requested authority referred to in paragraphs 1 and 2 shall reply to a request for confirmation of receipt or arrest within 10 days after receiving the request.

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<sup>24</sup> OJ L 386, 29.12.2006, p. 89.

<sup>25</sup> OJ L 205, 7.8.2007, p. 63.

## ARTICLE 54

### **Application of Union Acts**

1. For the purposes of this Title and with respect to Iceland and Norway, references to the Schengen Implementing Convention and to Union Acts are to those acts as applied by (insofar as relevant):

- (a) the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway on the establishment of rights and obligations between Ireland and the United Kingdom of Great Britain and Northern Ireland, on the one hand, and the Republic of Iceland and the Kingdom of Norway, on the other, in areas of the Schengen acquis which apply to these States<sup>26</sup>;
- (b) the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen acquis<sup>27</sup>;
- (c) the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto<sup>28</sup>.

2. For the purposes of this Title and with respect to Liechtenstein, references to the Schengen Implementing Convention and to Union Acts are to those acts as applied by the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis<sup>29</sup> in respect of Liechtenstein.

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<sup>26</sup> OJ L 15, 20.1.2000, p. 2.

<sup>27</sup> OJ L 176, 10.7.1999, p. 36.

<sup>28</sup> OJ L 26, 29.1.2004, p. 3.

<sup>29</sup> OJ L 160, 18.6.2011, p. 3.

## **TITLE IV**

### **DATA AND INFORMATION PROCESSED OR OBTAINED BEFORE THE END OF THE TRANSITION PERIOD, OR ON THE BASIS OF THIS AGREEMENT**

#### **ARTICLE 55**

##### **Definitions**

1. For the purposes of this Title, “provisions governing the protection of personal data” means:
  - (a) Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>30</sup>, with the exception of Chapter VII thereof;
  - (b) Directive (EU) 2016/680 of the European Parliament and of the Council<sup>31</sup>;
  - (c) Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup>;
  - (d) any other provisions of Union law governing the protection of personal data.
2. For the purposes of paragraph 1(b), Article 54 shall apply *mutatis mutandis*.

#### **ARTICLE 56**

##### **Protection of Personal Data**

1. Provisions governing the protection of personal data shall apply in the United Kingdom in respect of the processing of personal data of data subjects outside the United Kingdom, provided that the personal data:

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<sup>30</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>31</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

<sup>32</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002 p. 37).

- (a) were processed under provisions governing the protection of personal data in the United Kingdom before the end of the transition period; or
  - (b) are processed in the United Kingdom after the end of the transition period on the basis of this Agreement.
2. Paragraph 1 shall not apply to the extent the processing of the personal data referred to therein is subject to an adequate level of protection as established in applicable decisions in accordance with Article 45(3) of Regulation (EU) 2016/679 or Article 36(3) of Directive (EU) 2016/680.
3. To the extent that a decision referred to in paragraph 2 has ceased to be applicable, the United Kingdom shall ensure a level of protection of personal data essentially equivalent to that under provisions governing the protection of personal data in respect of the processing of personal data of data subjects referred to in paragraph 1.

## ARTICLE 57

### **Confidential Treatment and Restricted Use of Data and Information in the United Kingdom**

Without prejudice to Article 56, in addition to provisions governing the protection of personal data, the provisions of the EEA Agreement, and of, or made applicable by, other agreements, including this Agreement, on confidential treatment, restriction of use, storage limitation and requirement to erase data and information shall apply in respect of data and information obtained by authorities or official bodies of or in the United Kingdom or by contracting entities, as defined in Article 4 of Directive 2014/25/EU of the European Parliament and of the Council<sup>33</sup>, that are of or in the United Kingdom:

- (a) before the end of the transition period; or
- (b) on the basis of this Agreement.

## ARTICLE 58

### **Treatment of Data and Information obtained from the United Kingdom**

The EEA EFTA States shall not treat data and information obtained from the United Kingdom before the end of the transition period, or obtained after the end of the transition period on the basis of this Agreement, differently from data and

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<sup>33</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

information obtained from an EEA EFTA State or a Member State of the Union, on the sole ground of the United Kingdom having withdrawn from the Union.

# **TITLE V**

## **ONGOING PUBLIC PROCUREMENT AND SIMILAR PROCEDURES**

### **ARTICLE 59**

#### **Definitions**

For the purposes of this Title, “relevant rules” means:

- (a) the general principles of the EEA Agreement applicable to the award of public contracts,
- (b) Directives 2009/81/EC<sup>34</sup>, 2014/23/EU<sup>35</sup>, 2014/24/EU<sup>36</sup> and 2014/25/EU<sup>37</sup> of the European Parliament and of the Council,
- (c) Regulations (EC) No 2195/2002<sup>38</sup> and (EC) No 1370/2007<sup>39</sup> of the European Parliament and of the Council, Article 4 of Council Regulation (EEC) No 3577/92<sup>40</sup>, Articles 11 and 12 of Council Directive 96/67/EC<sup>41</sup>, Articles 16, 17 and 18 of Regulation (EC) 1008/2008<sup>42</sup> of the European Parliament and of the Council, Articles 6 and 7 of Regulation (EU) 2017/352<sup>43</sup> of the European Parliament and of the Council, and

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<sup>34</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

<sup>35</sup> Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

<sup>36</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

<sup>37</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

<sup>38</sup> Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340, 16.12.2002, p. 1).

<sup>39</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).

<sup>40</sup> Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ L 364, 12.12.1992, p. 7).

<sup>41</sup> Commission Regulation (EC) No 67/96 of 18 January 1996 on the opening of additional quotas for imports into the Community of certain textile products originating in certain third countries participating in trade fairs organized in 1996 in the European Community (OJ L 14, 19.1.1996, p. 1).

<sup>42</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (OJ L 293, 31.10.2008, p. 3).

<sup>43</sup> Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (OJ L 57, 3.3.2017, p. 1).

- (d) any other specific provisions of the EEA Agreement governing public procurement procedures.

## ARTICLE 60

### **Rules applicable to Ongoing Procedures**

1. The relevant rules shall apply:
  - (a) without prejudice to point (b), in respect of procedures launched by contracting authorities or contracting entities from the EEA EFTA States or the United Kingdom under those rules before the end of the transition period and not yet finalised on the last day of the transition period, including procedures using dynamic purchasing systems as well as procedures for which the call for competition takes the form of a prior information notice or periodic indicative notice or a notice on the existence of a qualification system; and
  - (b) in respect of the procedures referred to in Article 29(2), (3) and (4) of Directive 2009/81/EC, Article 33(2) to (5) of Directive 2014/24/EC and Article 51(2) of Directive 2014/25/EC which relate to the performance of the following framework agreements concluded by contracting authorities or contracting entities from the EEA EFTA States or the United Kingdom, including the award of contracts based on such framework agreements:
    - (i) framework agreements concluded before the end of the transition period that have neither expired nor been terminated on the last day of the transition period; or
    - (ii) framework agreements concluded after the end of the transition period in accordance with a procedure that falls under point (a) of this paragraph.
2. Without prejudice to the application of any restriction in accordance with the EEA Agreement, the non-discrimination principle shall be complied with by contracting authorities and contracting entities with regard to tenderers or, as applicable, persons who are otherwise entitled to submit applications, from the EEA EFTA States and the United Kingdom in relation to the procedures referred to in paragraph 1.
3. A procedure referred to in paragraph 1 shall be considered to have been launched when a call for competition or any other invitation to submit applications has been made in accordance with the relevant rules. Where the relevant rules allow for the use of procedures that do not require the use of a call for competition or other invitations to submit applications, the procedure shall be considered to have been

launched when the contracting authority or contracting entity contacted economic operators in relation to the specific procedure.

4. A procedure referred to in paragraph 1 shall be considered finalised:

- (a) upon publication of a contract award notice in accordance with the relevant rules or, where those rules do not require the publication of a contract award notice, upon conclusion of the relevant contract; or
- (b) upon informing tenderers or persons otherwise entitled to submit applications, as the case may be, of the reasons why the contract was not awarded if the contracting authority or contracting entity decided not to award a contract.

5. This Article shall not affect the rules of the Parties on customs, the movement of goods, the provision of services, the recognition of professional qualifications or intellectual property.

## ARTICLE 61

### **Review Procedures**

The provisions of Council Directives 89/665/EEC<sup>44</sup> and 92/13/EEC<sup>45</sup> shall apply in respect of the public procurement procedures referred to in Article 60 of this Agreement which fall within the scope of those provisions.

## ARTICLE 62

### **Cooperation**

Article 61(2) of Directive 2014/24/EU shall apply for a period not exceeding 9 months from the end of the transition period in respect of the procedures under that Directive that were launched by contracting authorities from the United Kingdom before the end of the transition period and were not yet finalised on the last day of the transition period.

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<sup>44</sup> Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).

<sup>45</sup> Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23.3.1992, p. 14).

## **TITLE VI**

### **JUDICIAL PROCEDURES**

#### ARTICLE 63

##### **Representation before the EFTA Court**

1. Where, before the end of the transition period, a lawyer authorised to practise before the courts of the United Kingdom represented or assisted a party in proceedings before the EFTA Court or in relation to requests for advisory opinions referred to it before the end of the transition period, that lawyer may continue to represent or assist that party in those proceedings or requests. This right shall apply to all stages of proceedings.
2. When representing or assisting a party before the EFTA Court in the cases referred to in paragraph 1, lawyers authorised to practise before the courts of the United Kingdom shall in every respect be treated as lawyers authorised to practise before courts of the EEA/EFTA States representing or assisting a party before the EFTA Court.

## **PART FOUR**

### **INSTITUTIONAL AND FINAL PROVISIONS**

#### **TITLE I**

##### **CONSISTENT INTERPRETATION AND APPLICATION**

###### **ARTICLE 64**

###### **Monitoring of the implementation and application of Part Two**

1. In the United Kingdom, the implementation and application of Part Two shall be monitored by an independent authority (the “Authority”) which shall have powers equivalent to those exercised by the European Commission of the Union to conduct inquiries on its own initiative concerning alleged breaches of Part Two by the administrative authorities of the United Kingdom and to receive complaints from EEA EFTA nationals and their family members for the purposes of conducting such inquiries. The Authority shall also have the right, following such complaints, to bring a legal action before a competent court or tribunal in the United Kingdom in an appropriate judicial procedure with a view to seeking an adequate remedy.
2. In the EEA EFTA States, the implementation and application of Part Two shall be monitored by the EFTA Surveillance Authority, which shall have equivalent powers as those that follow from the EEA Agreement and the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Surveillance and Court Agreement”). This includes the ability to conduct inquiries on its own initiative concerning alleged breaches of Part Two by the administrative authorities of the EEA EFTA States and to receive complaints from United Kingdom nationals and their family members for the purposes of conducting such inquiries. The EFTA Surveillance Authority shall also have the right to bring a matter before the EFTA Court pursuant to the Surveillance and Court Agreement
3. The EFTA Surveillance Authority and the Authority shall each annually inform the Joint Committee on the implementation and application of Part Two in the EEA EFTA States and in the United Kingdom, respectively. The information provided shall, in particular, cover measures taken to implement or comply with Part Two and the number and nature of complaints received.
4. The Joint Committee shall assess, no earlier than 8 years after the end of the transition period, the monitoring arrangements established by this Article. Following such assessment, it may decide, in good faith, pursuant to point (f) of Article 65(4) and Article 66, that the United Kingdom and the EEA EFTA States may discontinue the monitoring arrangements set out in paragraphs 1 to 3 of this Article.

## **TITLE II**

### **INSTITUTIONAL PROVISIONS**

#### ARTICLE 65

##### **Joint Committee**

1. A Joint Committee, comprising representatives of each of the Parties, is hereby established. The Joint Committee shall be chaired on a rotating basis by one of the Parties.
2. The Joint Committee shall meet at the request of one of the Parties; and, in any event shall meet at least once a year after the end of the transition period. The Joint Committee shall set its meeting schedule and its agenda by consensus. If a Party requests a meeting of the Joint Committee, such a meeting shall take place at the earliest possible date, but not later than 45 days from the date of receipt of the request, unless otherwise agreed.
3. The Joint Committee shall be responsible for the implementation and application of this Agreement. A Party may refer to the Joint Committee any issue relating to the implementation, application and interpretation of this Agreement.
4. The Joint Committee shall:
  - (a) supervise and facilitate the implementation and application of this Agreement;
  - (b) decide on the tasks of any specialised committees and supervise their work;
  - (c) seek appropriate ways and methods of preventing problems that might arise in areas covered by this Agreement or of resolving disputes that may arise regarding the interpretation and application of this Agreement, including in accordance with Article 68;
  - (d) adopt its own rules of procedure, as well as rules of procedure of any specialised committees;
  - (e) consider any matter of interest relating to an area covered by this Agreement;
  - (f) adopt decisions and make recommendations as set out in Article 66;
  - (g) adopt amendments to this Agreement in the cases provided for in this Agreement.

5. The Joint Committee may:

- (a) establish and dissolve one or more specialised committees in order to assist it in the performance of its tasks;
- (b) delegate responsibilities to the specialised committees, except those referred to in points (b), (d), (f) and (g) of paragraph 4;
- (c) change the tasks assigned to the specialised committees;
- (d) except in relation to Parts One and Four, until the end of the fourth year following the end of the transition period, adopt decisions amending this Agreement, where such amendments are necessary to correct errors, to address omissions or other deficiencies, or to address situations unforeseen when this Agreement was signed, and provided that such decisions may not amend the essential elements of this Agreement;
- (e) take such other action in the exercise of its functions as decided by the Parties.

6. The Joint Committee shall issue an annual report on the functioning of this Agreement after the end of the transition period.

## ARTICLE 66

### **Decisions and Recommendations**

1. The Joint Committee shall, for the purposes of this Agreement, have the power to adopt decisions in respect of all matters for which this Agreement so provides and make appropriate recommendations to the Parties.

2. Subject to paragraph 3, the decisions adopted by the Joint Committee shall, upon their entry into force, be binding on the Parties, and the Parties shall implement them.

3. If a decision of the Joint Committee can be binding on a Party only after the fulfilment of domestic legal requirements, the decision shall enter into force for that Party on the first day of the second month following the date that the Party concerned notifies the Depositary that its internal requirements have been fulfilled, unless otherwise agreed by the Joint Committee.

4. The Joint Committee shall adopt its decisions and make its recommendations by consensus.

## **TITLE III**

### **DISPUTE SETTLEMENT**

#### ARTICLE 67

##### **Cooperation**

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt, through cooperation and consultations, to arrive at a satisfactory resolution of any matter that might affect its operation.

#### ARTICLE 68

##### **Settlement of Disputes**

1. Any Party may bring any dispute which concerns the interpretation or application of this Agreement before the Joint Committee.
2. The Joint Committee shall endeavour to resolve disputes. It shall be provided with all information which might be of use in making possible an in-depth examination of the situation, with a view to finding an acceptable solution. To this end, the Joint Committee shall examine all possibilities to maintain the good functioning of the Agreement. The Joint Committee may settle the dispute through a decision.

## **TITLE IV**

### **FINAL PROVISIONS**

#### **ARTICLE 69**

##### **Annexes**

Annexes I and II shall form an integral part of this Agreement.

#### **ARTICLE 70**

##### **Authentic Text and Depositary**

This Agreement is drawn up in a single original in the English language.

The Government of Norway shall be the Depositary of this Agreement.

#### **ARTICLE 71**

##### **Entry into Force and Application**

1. This Agreement is subject to ratification, acceptance or approval in accordance with the respective legal requirements of the Parties. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.
2. This Agreement shall enter into force in relation to those Parties which have deposited their instruments of ratification, acceptance or approval, on the later of:
  - (a) the date on which the EU-UK Withdrawal Agreement enters into force; or
  - (b) the date on which at least one EEA EFTA State and the United Kingdom have deposited their instruments with the Depositary.
3. In relation to an EEA EFTA State depositing its instrument of ratification, acceptance or approval after this Agreement has entered into force, the Agreement shall enter into force on the day following the deposit of its instrument.
4. Parts Two and Three, with the exception of Articles 18 and 42, as well as Articles 64 and 68, shall apply as from the end of the transition period.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at London this twenty eighth day of January 2020, in one original in English, which shall be deposited with the Depositary, who shall transmit certified copies to all the Parties.

**For Iceland:**

**GUDLAUGUR THOR THORDARSSON**

**For the Principality of Liechtenstein:**

**KATRIN EGGENBERGER**

**For the Kingdom of Norway:**

**INE MARIE ERIKSEN SØREIDE**

**For the United Kingdom of Great Britain and Northern Ireland:**

**STEPHEN BARCLAY**

## ANNEXES

## ANNEX I

### *Social Security Coordination*

#### **Part I**

#### **Decisions and Recommendations of the Administrative Commission**

Applicable legislation (A series):

- Decision A1 of 12 June 2009 concerning the establishment of a dialogue and conciliation procedure concerning the validity of documents, the determination of the applicable legislation and the provisions of benefits under Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p.1);
- Decision A2 of 12 June 2009 concerning the interpretation of Article 12 of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the legislation applicable to posted workers and self-employed workers temporarily working outside the competent State (OJ C 106, 24.4.2010, p. 5);
- Decision A3 of 17 December 2009 concerning the aggregation of uninterrupted posting periods completed under the Council Regulation (EEC) No 1408/71 and Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ C 149, 08.6.2010, p. 3).

Electronic Data Exchange (E series):

- Decision E1 of 12 June 2009 concerning the practical arrangements for the transitional period for the data exchange via electronic means referred to in Article 4 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p. 9);
- Decision E2 of 3 March 2010 concerning the establishment of a change management procedure applying to details of the bodies defined in Article 1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council which are listed in the electronic directory which is an inherent part of EESSI (OJ C 187, 10.7.2010, p. 5);
- Decision E4 of 13 March 2014 concerning the transitional period as defined in Article 95 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 152, 20.5.2014, p. 21);

Family Benefits (F series):

- Decision F1 of 12 June 2009 concerning the interpretation of Article 68 of Regulation (EC) No 883/2004 of the European Parliament and of the Council relating to priority rules in the event of overlapping of family benefits (OJ C 106, 24.4.2010, p. 11);
- Decision F2 of 23 June 2015 concerning the exchange of data between institutions for the purpose of granting family benefits (OJ C 52, 11.2.2016, p. 11).

Horizontal issues (H series):

- Decision H1 of 12 June 2009 concerning the framework for the transition from Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 to Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and of the Council and the application of Decisions and Recommendations of the Administrative Commission for the coordination of social security systems (OJ C 106, 24.4.2010, p. 13-);
- Decision H2 of 12 June 2009 concerning the methods of operation and the composition of the Technical Commission for data processing of the Administrative Commission for the coordination of social security systems (OJ C 106, 24.4.2010, p. 17);
- Decision H3 of 15 October 2009 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p. 56);
- Decision H4 of 22 December 2009 concerning the composition and working methods of the Audit Board of the Administrative Commission for the Coordination of Social Security Systems (OJ C 107, 27.4.2010, p. 3);
- Decision H5 of 18 March 2010 concerning cooperation on combating fraud and error within the framework of Council Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems (OJ C 149, 8.4.2010, p. 5);
- Decision H6 of 16 December 2010 concerning the application of certain principles regarding the aggregation of periods under Article 6 of Regulation (EC) No 883/2004 on the coordination of social security systems (OJ C 45, 12.2.2011, p. 5);
- Decision H7 of 25 June 2015 on the revision of Decision H3 concerning the date to be taken into consideration for determining the rates of

conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems (OJ C 52, 11.2.2016, p. 13);

Pensions (P series):

- Decision P1 of 12 June 2009 on the interpretation of Articles 50(4), 58 and 87(5) of Regulation (EC) No 883/2004 of the European Parliament and of the Council for the award of invalidity, old-age and survivors' benefits (OJ C 106, 24.4.2010, p. 21).
- Recommendation P1 of 12 June 2009 concerning the Gottardo judgment, according to which the advantages enjoyed by a State's own nationals under a bilateral convention on social security with a non-member country must also be granted to workers who are nationals of other Member States (OJ C 106, 24.4.2010, p. 47)

Recovery (R series):

- Decision R1 of 20 June 2013 concerning the interpretation of Article 85 of Regulation (EC) No 987/2009 (OJ C 279, 27.9.2013, p. 11).

Sickness (S series):

- Decision S1 of 12 June 2009 concerning the European Health Insurance Card (OJ C 106, 24.4.2010, p. 23);
- Decision S2 of 12 June 2009 concerning the technical specifications of the European Health Insurance Card (OJ C 106, 24.4.2010, p. 26);
- Decision S3 of 12 June 2009 defining the benefits covered by Articles 19(1) and 27(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council and Article 25(A)(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p. 40);
- Decision S5 of 2 October 2009 on interpretation of the concept of 'benefits in kind' as defined in Article 1(va) of Regulation (EC) No 883/2004 of the European Parliament and of the Council in the event of sickness or maternity pursuant to Articles 17, 19, 20, 22, 24(1), 25, 26, 27(1, 3, 4 and 5), 28, 34 and 36(1 and 2) of Regulation (EC) No 883/2004 and on calculation of the amounts to be refunded under Articles 62, 63 and 64 of Regulation (EC) No 987/2009 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p. 54);
- Decision S6 of 22 December 2009 concerning the registration in the Member State of residence under Article 24 of Regulation (EC) No

987/2009 and the compilation of the inventories provided for in Article 64(4) of Regulation (EC) No 987/2009 (OJ C 107, 27.4.2010, p. 6);

- Decision S8 of 15 June 2011 concerning the granting of prostheses, major appliances and other substantial benefits in kind provided for in Article 33 of Regulation (EC) No 883/2004 on the coordination of social security systems (OJ C 262, 06.9.2011, p. 6);
- Decision S9 of 20 June 2013 concerning refund procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004 (OJ C 279, 27.9.2013, p. 8);
- Decision S10 of 19 December 2013 concerning the transition from Regulations (EEC) Nos 1408/71 and 574/72 to Regulations (EC) Nos 883/2004 and 987/2009 and the application of reimbursement procedures (OJ C 152, 20.5.2014, p. 16);
- Recommendation S1 of 15 March 2012 concerning financial aspects of cross-border living organ donations (OJ, C 240, 10.8.2012, p. 3);

Unemployment (U series):

- Decision U1 of 12 June 2009 concerning Article 54(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council relating to increases in unemployment benefit for dependent members of the family (OJ C 106, 24.4.2010, p. 42);
- Decision U2 of 12 June 2009 concerning the scope of Article 65(2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the right to unemployment benefits of wholly unemployed persons other than frontier workers who were resident in the territory of a Member State other than the competent Member State during their last period of employment or self-employment (OJ C 106, 24.4.2010, p. 43);
- Decision U3 of 12 June 2009 concerning the scope of the concept of 'partial unemployment' applicable to the unemployed persons referred to in Article 65(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ C 106, 24.4.2010, p. 45);
- Decision U4 of 13 December 2011 concerning the reimbursement procedures under Article 65(6) and (7) of Regulation (EC) No 883/2004 and Article 70 of Regulation (EC) No 987/2009 (OJ C 57, 25.2.2012, p. 4);
- Recommendation U1 of 12 June 2009 concerning the legislation applicable to unemployed persons engaging in part-time professional or

trade activity in a Member State other than the State of residence (OJ C 106, 24.4.2010, p. 49);

- Recommendation U2 of 12 June 2009 concerning the application of Article 64(1)(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council to unemployed persons accompanying their spouses or partners pursuing a professional or trade activity in a Member State other than the competent State (OJ C 106, 24.4.2010, p. 51).

## **Part II**

### **Acts referred 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,<sup>46</sup> as amended by:

- Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009;<sup>47</sup>
- Commission Regulation (EU) No 1244/2010 of 9 December 2010;<sup>48</sup>
- Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012;<sup>49</sup>
- Commission Regulation (EU) No 1224/2012 of 18 December 2012;<sup>50</sup>
- Council Regulation (EU) No 517/2013 of 13 May 2013;<sup>51</sup>
- Commission Regulation (EU) No 1372/2013 of 19 December 2013,<sup>52</sup> as amended by Commission Regulation (EU) No 1368/2014 of 17 December 2014;<sup>53</sup>
- Commission Regulation (EU) 2017/492 of 21 March 2017.<sup>54</sup>

Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems<sup>55</sup>, as amended by:

- Commission Regulation (EU) No 1244/2010 of 9 December 2010;<sup>56</sup>

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<sup>46</sup> OJ L 166, 30.4.2004, p. 1.

<sup>47</sup> OJ L 284, 30.10.2009, p. 43.

<sup>48</sup> OJ L 338, 22.12.2010, p. 35.

<sup>49</sup> OJ L 149, 8.6.2012, p. 4.

<sup>50</sup> OJ L 349, 19.12.2012, p. 45.

<sup>51</sup> OJ L 158, 10.6.2013, p. 1.

<sup>52</sup> OJ L 346, 20.12.2013, p. 27.

<sup>53</sup> OJ L 366, 20.12.2014, p. 15.

<sup>54</sup> OJ L 76, 22.3.2017, p. 13.

<sup>55</sup> OJ L 284, 30.10.2009, p. 1.

<sup>56</sup> OJ L 338, 22.12.2010, p. 35.

- Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012;<sup>57</sup>
- Commission Regulation (EU) No 1224/2012 of 18 December 2012;<sup>58</sup>
- Commission Regulation (EU) No 1372/2013 of 19 December 2013;<sup>59</sup>
- Commission Regulation (EU) No 1368/2014 of 17 December 2014;<sup>60</sup>
- Commission Regulation (EU) 2017/492 of 21 March 2017.<sup>61</sup>

### **Part III**

**Adaptations to Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009**  
The provisions of Regulation (EC) No 883/2004 shall, for the purposes of this Agreement, be adapted as follows:

- (a) the following shall be added to Annex III:  
“UNITED KINGDOM”;
- (b) the following shall be added to Annex VI:  
**“UNITED KINGDOM**  
Employment and Support Allowance (ESA)
- (a) For awards granted before 1 April 2016 ESA is a cash sickness benefit for the initial 91 days (Assessment Phase). From the 92<sup>nd</sup> day ESA (Main Phase) becomes an invalidity benefit.
- (b) For awards granted on or after 1 April 2016 ESA is a cash sickness benefit for the initial 365 days (Assessment Phase). From the 366<sup>th</sup> day ESA (Support Group) becomes an invalidity benefit.

Great Britain legislation: Part 1 of the Welfare Reform Act 2007.

Northern Ireland legislation: Part 1 of the Welfare Reform Act (Northern Ireland) 2007.”;

- (c) the following shall be added to Annex VIII, Part 1:  
“UNITED KINGDOM

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<sup>57</sup> OJ L 149, 8.6.2012, p. 4.

<sup>58</sup> OJ L 349, 19.12.2012, p. 45.

<sup>59</sup> OJ L 346, 20.12.2013, p. 27.

<sup>60</sup> OJ L 366, 20.12.2014, p. 15.

<sup>61</sup> OJ L 76, 22.3.2017, p. 13.

All applications for retirement pension, state pension pursuant to Part 1 of the Pensions Act 2014, widows' and bereavement benefits, with the exception of those for which during a tax year beginning on or after 6 April 1975:

- (i) the party concerned had completed periods of insurance, employment or residence under the legislation of the United Kingdom and another Member State; and one (or more) of the tax years was not considered a qualifying year within the meaning of the legislation of the United Kingdom;
- (ii) the periods of insurance completed under the legislation in force in the United Kingdom for the periods prior to 5 July 1948 would be taken into account for the purposes of Article 52(1)(b) of the Regulation by application of the periods of insurance, employment or residence under the legislation of another Member State.

All applications for additional pension pursuant to the Social Security Contributions and Benefits Act 1992, section 44, and the Social Security Contributions and Benefits (Northern Ireland) Act 1992, section 44.”;

- (d) the following shall be added to Annex VIII, Part 2:  
**“UNITED KINGDOM**

Graduated retirement benefits paid pursuant to the National Insurance Act 1965, sections 36 and 37, and the National Insurance Act (Northern Ireland) 1966, sections 35 and 36.”;

- (e) the following shall be added to Annex X:  
**“UNITED KINGDOM**
  - (a) State Pension Credit (State Pension Credit Act 2002 and State Pension Credit Act (Northern Ireland) 2002);
  - (b) Income-based allowances for jobseekers (Jobseekers Act 1995 and Jobseekers (Northern Ireland) Order 1995);
  - (d) Disability Living Allowance mobility component (Social Security Contributions and Benefits Act 1992 and Social Security Contributions and Benefits (Northern Ireland) Act 1992);
  - (e) Employment and Support Allowance Income-related (Welfare Reform Act 2007 and Welfare Reform Act (Northern Ireland) 2007).”;
- (f) the following shall be added to Annex XI:  
**“UNITED KINGDOM**

1. Where, in accordance with United Kingdom legislation, a person may be entitled to a retirement pension if:

- (a) the contributions of a former spouse are taken into account as if they were that person's own contributions; or
- (b) the relevant contribution conditions are satisfied by that person's spouse or former spouse, then provided, in each case, that the spouse or former spouse is or had been exercising an activity as an employed or self-employed person, and had been subject to the legislation of two or more Member States, the provisions of Chapter 5 of Title III of this Regulation shall apply in order to determine entitlement under United Kingdom legislation. In this case, references in the said Chapter 5 to 'periods of insurance' shall be construed as references to periods of insurance completed by:
  - (i) a spouse or former spouse where a claim is made by:
    - a married woman, or
    - a person whose marriage has terminated otherwise than by the death of the spouse; or
  - (ii) a former spouse, where a claim is made by:
    - a widower who immediately before pensionable age is not entitled to widowed parent's allowance, or
    - a widow who immediately before pensionable age is not entitled to widowed mother's allowance, widowed parent's allowance or widow's pension, or who is only entitled to an age-related widow's pension calculated pursuant to Article 52(1)(b) of this Regulation, and for this purpose 'age-related widow's pension' means a widow's pension payable at a reduced rate in accordance with section 39(4) of the Social Security Contributions and Benefits Act 1992.

2. For the purposes of applying Article 6 of this Regulation to the provisions governing entitlement to attendance allowance, carer's allowance and disability living allowance, a period of employment, self-employment or residence completed in the territory of a Member State other than the United Kingdom shall be taken into account in so far as is necessary to satisfy conditions as to required periods of presence in the United Kingdom, prior to the day on which entitlement to the benefit in question first arises.

3. For the purposes of Article 7 of this Regulation, in the case of invalidity, old-age or survivors' cash benefits, pensions for accidents at work or occupational diseases and death grants, any beneficiary under United Kingdom legislation who is

staying in the territory of another Member State shall, during that stay, be considered as if he resided in the territory of that other Member State.

4. Where Article 46 of this Regulation applies, if the person concerned suffers incapacity for work leading to invalidity while subject to the legislation of another Member State, the United Kingdom shall, for the purposes of Section 30A (5) of the Social Security Contributions and Benefits Act 1992, take account of any periods during which the person concerned has received, in respect of that incapacity for work:

- (i) cash sickness benefits or wages or salary in lieu thereof; or
- (ii) benefits within the meaning of Chapters 4 and 5 of Title III of this Regulation granted in respect of the invalidity which followed that incapacity for work, under the legislation of the other Member State, as though they were periods of short-term incapacity benefit paid in accordance with Sections 30A (1)-(4) of the Social Security Contributions and Benefits Act 1992.

In applying this provision, account shall only be taken of periods during which the person would have been incapable of work within the meaning of United Kingdom legislation.

5. (1) For the purpose of calculating an earnings factor in order to determine entitlement to benefits under United Kingdom legislation, for each week of activity as an employed person under the legislation of another Member State, and which commenced during the relevant income tax year within the meaning of United Kingdom legislation, the person concerned shall be deemed to have paid contributions as an employed earner, or have earnings on which contributions have been paid, on the basis of earnings equivalent to two-thirds of that year's upper earnings limit.

- (2) For the purposes of Article 52(1)(b)(ii) of this Regulation, where:
  - (a) in any income tax year starting on or after 6 April 1975, a person carrying out activity as an employed person has completed periods of insurance, employment or residence exclusively in a Member State other than the United Kingdom, and the application of point 5(1) above results in that year being counted as a qualifying year within the meaning of United Kingdom legislation for the purposes of Article 52(1)(b)(i) of this Regulation, he shall be deemed to have been insured for 52 weeks in that year in that other Member State;
  - (b) any income tax year starting on or after 6 April 1975 does not count as a qualifying year within the meaning of United Kingdom legislation for the purposes of Article 52(1)(b)(i) of this Regulation, any periods of insurance, employment or residence completed in that year shall be disregarded.

(3) For the purpose of converting an earnings factor into periods of insurance, the earnings factor achieved in the relevant income tax year within the meaning of United Kingdom legislation shall be divided by that year's lower earnings limit. The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated shall be treated as representing the number of weeks of insurance completed under United Kingdom legislation during that year, provided that such figure shall not exceed the number of weeks during which in that year the person was subject to that legislation.”.

The provisions of Regulation (EC) No 987/2009 shall, for the purposes of this Agreement, be adapted as follows:

- (a) the following shall be added to Annex 1:

**“UNITED KINGDOM-NORWAY**

- (a) The Exchange of Letters of 20 March 1997 and 3 April 1997 concerning Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 (reimbursement or waiving of reimbursement of the costs of benefits in kind), and Article 105 of Regulation (EEC) No 574/72 (waiving of the costs of administrative checks and medical examinations).”

- (b) the following shall be added to Annex 3:

**“UNITED KINGDOM”.**

## Annex II

### *Provisions of the EEA Agreement referred to in Article 39(4)*

1. Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine<sup>62</sup>.
2. Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals<sup>63</sup>.
3. Chapter II of Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae<sup>64</sup>.
4. Chapter II of Council Directive 2009/158/EC of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs<sup>65</sup>.
5. Chapter II of Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC<sup>66</sup>.
6. Chapter II of Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species<sup>67</sup>.
7. Chapter II of Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species<sup>68</sup>.

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<sup>62</sup> OJ 121, 29.7.1964, p. 1977, part of the EEA Agreement at the time of signing (OJ L 1, 3.1.1994, p. 3).

<sup>63</sup> OJ L 46, 19.2.1991, p. 19, part of the EEA Agreement at the time of signing (OJ L 1, 3.1.1994, p. 3).

<sup>64</sup> OJ L 192, 23.7.2010, p. 1, incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 60/2011 of 1 July 2011 (OJ L 262, 6.10.2011, p. 7).

<sup>65</sup> OJ L 343, 22.12.2009, p. 74, incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 74/2012 of 30 April 2012 (OJ L 248, 13.9.2012, p. 1.).

<sup>66</sup> OJ L 268, 14.9.1992, p. 54, incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 7/1994 of 21 March 1994 (OJ L 160, 28.6.1994, p. 1).

<sup>67</sup> OJ L 302, 19.10.1989, p. 1, part of the EEA Agreement at the time of signing (OJ L 1, 3.1.1994, p. 3).

<sup>68</sup> OJ L 194, 22.7.1988, p. 10, part of the EEA Agreement at the time of signing (OJ L 1, 3.1.1994, p. 3).

8. Chapter II of Council Directive 90/429/EEC of 26 June 1990 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species<sup>69</sup>.

9. Chapter III of Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals<sup>70</sup>.

10. Chapter II of Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003<sup>71</sup>.

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<sup>69</sup> OJ L 224, 18.8.1990, p. 62, part of the EEA Agreement at the time of signing (OJ L 1, 3.1.1994, p. 3).

<sup>70</sup> OJ L 328, 24.11.2006, p. 14, incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 99/2007 of 28 September 2007 (OJ L 047, 21.2.2008, p. 10).

<sup>71</sup> OJ L 178, 28.6.2013, p. 1, incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 66/2016 of 29 April 2016 (OJ L 300, 16.11.2017, p. 1).