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STATUTORY INSTRUMENTS

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**2019 No. 776**

**EXITING THE EUROPEAN UNION  
HEALTH SERVICES  
NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES  
SOCIAL SECURITY  
HUMAN TISSUE, ENGLAND AND WALES  
HUMAN TISSUE, NORTHERN IRELAND**

The Social Security Coordination (Reciprocal Healthcare)  
(Amendment etc.) (EU Exit) Regulations 2019

*Made - - - - 2nd April 2019*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

**PART 1**

**Preliminary**

**Citation, commencement and extent**

**1.—**(1) These Regulations may be cited as the Social Security Coordination (Reciprocal Healthcare) (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day<sup>(2)</sup>.

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

<sup>(2)</sup> “Exit day” is defined in section 20 of the European Union (Withdrawal) Act 2018.

(2) An amendment, repeal or revocation made by these Regulations has the same extent and application as the provision being amended, repealed or revoked.

## Interpretation

### 2. In these Regulations—

“Regulation (EEC) No 1408/71” means Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community;

“Regulation (EEC) No 574/72” means Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community;

“Regulation (EC) No 883/2004” means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems;

“Regulation (EC) No 987/2009” means 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.

## PART 2

### Amendments of primary legislation

#### The National Health Service Act 2006

##### 3. In the National Health Service Act 2006—

- (a) in section 183 (payment of travelling expenses)(3), omit paragraph (a)(iii) and the “or” preceding it;
- (b) in section 275 (interpretation), omit the definition of “Regulation (EC) No. 883/2004”(4) so far as it relates to section 183(a)(iii).

#### The National Health Service (Wales) Act 2006

##### 4. In the National Health Service (Wales) Act 2006—

- (a) in section 131 (payment of travelling expenses)(5), omit paragraph (a)(iii) and the “or” preceding it;
- (b) in section 206 (interpretation), omit the definition of “Regulation (EC) No. 883/2004”(6) so far as it relates to section 131(a)(iii).

(3) 2006 c.41; section 183 was amended by paragraph 98 of Schedule 4 to the Health and Social Care Act 2012 (c.7).

(4) The definition was inserted by S.I. 2010/915.

(5) 2006 c.42; section 131 was amended by S.I. 2010/915; there are other amending instruments but none is relevant.

(6) The definition was inserted by S.I. 2010/915.

## PART 3

### Amendments of subordinate legislation

#### **The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005**

5.—(1) The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(7), is amended as follows.

(2) In article 1 (interpretation), omit the definition of “the European Health Insurance Card”.

(3) Omit article 3(a)(ii) (functions of the NHS Business Services Authority – the European Health Insurance Card).

#### **The Human Tissue Act 2004 (Ethical Approval, Exceptions from Licensing and Supply of Information about Transplants) Regulations 2006**

6. In the Human Tissue Act 2004 (Ethical Approval, Exceptions from Licensing and Supply of Information about Transplants) Regulations 2006(8), in Schedule 2 (receipt of transplantable material), in paragraph 10, in the text following “case) that—” —

(a) omit sub-paragraph (a);

(b) omit sub-paragraph (b).

#### **The National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013**

7. In the National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013(9), omit regulations 2 to 8 (exercise of EU functions), so far as not omitted by the National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019(10).

#### **The National Health Service (General Medical Services Contracts) Regulations 2015**

8. In the National Health Service (General Medical Services Contracts) Regulations 2015(11), omit regulation 74F (information relating to overseas visitors).

#### **The National Health Service (Personal Medical Services Agreements) Regulations 2015**

9. In the National Health Service (Personal Medical Services Agreements) Regulations 2015(12), omit regulation 67F (information relating to overseas visitors).

#### **The Social Security Coordination (Regulation (EC) No 883/2004, EEA Agreement and Swiss Agreement) (Amendment) (EU Exit) Regulations 2019**

10. In the Social Security Coordination (Regulation (EC) No 883/2004, EEA Agreement and Swiss Agreement) (Amendment) (EU Exit) Regulations 2019(13), in Schedule 3 (amendments to Title 3 of Regulation (EC) No 883/2004)—

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(7) [S.I. 2005/2414](#); relevant amendments were made by [S.I. 2006/632](#).

(8) [S.I. 2006/1260](#); relevant amendments were made by [S.I. 2011/1043](#) and [2012/1809](#).

(9) [S.I. 2013/261](#); amended by [S.I. 2013/2269](#); there are other amending instruments but none is relevant.

(10) [S.I. 2019/777](#).

(11) [S.I. 2015/1862](#); relevant amendments were made by [S.I. 2017/908](#).

(12) [S.I. 2015/1879](#); relevant amendments were made by [S.I. 2017/908](#).

(13) [S.I. 2019/722](#).

- (a) omit paragraph 2 (amendments of Article 29);
- (b) omit paragraph 5 (amendments of Article 36(2)).

## PART 4

### Rights etc deriving from the Treaties

#### **Rights etc deriving from the Treaties**

11. The rights, powers, liabilities, obligations, restrictions, remedies and procedures which, but for this regulation, would continue to be recognised and available in domestic law<sup>(14)</sup> by virtue of section 4 of the European Union (Withdrawal) Act 2018, are to cease to be recognised and available in domestic law on exit day, so far as they are inconsistent with, or are otherwise capable of affecting the interpretation, application or operation of, provision made by these Regulations.

## PART 5

### Amendment of EU Regulations

#### **Regulation (EC) No 883/2004**

12. Regulation (EC) No 883/2004 is amended as set out in Schedule 1.

#### **Regulation (EC) No 987/2009**

13. Regulation (EC) No 987/2009 is amended as set out in Schedule 2.

#### **Regulation (EEC) No 1408/71**

14. Regulation (EEC) No 1408/71 is amended as set out in Schedule 3.

#### **Regulation (EEC) No 574/72**

15. Regulation (EEC) No 574/72 is amended as set out in Schedule 4.

## PART 6

### Amendment of the EEA agreement

#### **Amendment of the EEA agreement**

16. In the Agreement on the European Economic Area signed at Oporto on 2 May 1992, so far as it forms part of domestic law by virtue of section 3(2)(b) of the European Union (Withdrawal) Act 2018, in Annex 6, in Part 1 (general social security coordination), in paragraph 1 (provision relating to Regulation (EC) No 883/2004)—

- (a) omit point (e) (modification of Annex 3);
- (b) omit point (f) (modification of Annex 4);

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(14) “Domestic law” is defined in section 20 of the European Union (Withdrawal) Act 2018.

- (c) omit point (l) (modification of Annex 11), so far as not omitted by regulation 3 of the Social Security Coordination (Regulation [\(EC\) No 883/2004](#), EEA Agreement and Swiss Agreement) (Amendment) (EU Exit) Regulations 2019.

## PART 7

### Savings and transitional provision

#### **Savings and transitional provision**

17. Schedule 5 makes savings and transitional provision.

Signed by authority of the Secretary of State for Health and Social Care.

2nd April 2019

*Stephen Hammond*  
Minister of State,  
Department for Health and Social Care

## SCHEDULES

### SCHEDULE 1

Regulation 12

#### Regulation (EC) No 883/2004

1. Regulation (EC) No 883/2004 is amended as follows.
- 2.—(1) Article 1 is amended as follows.
  - (2) In point (i)(1)(ii), for “pursuant to Title III, Chapter 1 on sickness, maternity and equivalent paternity benefits” substitute “referred to in Article 29”.
  - (3) In point (va)(15)—
    - (a) in point (i)—
      - (i) for “Title III, Chapter 1 (sickness, maternity and equivalent paternity benefits)” substitute “this Article, Article 3 and Article 29”;
      - (ii) for “Member State” substitute “State”;
    - (b) omit point (ii).
  - (4) In point (z), omit “in kind or”.
3. In Article 3, after paragraph 5 insert—
 

“6. References in this Regulation to receipt of social security benefits do not, in relation to the United Kingdom, include receipt of benefits in kind.”
4. Omit Articles 17 to 20.
- 5.—(1) Article 22 is amended as follows.
  - (2) In paragraph 1—
    - (a) for “benefits in kind”, in each place it occurs, substitute “cash benefits”;
    - (b) for “Member State in which he/she resides” substitute “United Kingdom”;
    - (c) for the words from “the pension claimant” to “in paragraph 2” substitute “in the event of a pension being awarded the United Kingdom would be competent under Articles 23 to 25”;
    - (d) omit “in the Member State of residence”.
  - (3) Omit paragraph 2.
6. In Article 23—
  - (a) for “benefits in kind”, in each place it occurs (including the heading), substitute “cash benefits”;
  - (b) in the heading for “Member State of residence” substitute “United Kingdom where it is the State of residence”;
  - (c) after “person who” insert “resides in the United Kingdom and”;
  - (d) for “Member States” substitute “States”;

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(15) Point (va) was inserted by Regulation (EC) No 988/2009 of the European Parliament and the Council of 16 September 2009 (“Regulation (EC) 988/2009”).

- (e) for “Member State of residence” substitute “United Kingdom”;
- (f) for “that Member State”, in both places it occurs, substitute “the United Kingdom”;
- (g) omit “and at the expense of”;
- (h) for “place of residence” substitute “United Kingdom”.

7. For Article 24 (including the heading) substitute—

*“Article 24*

*No right to cash benefits under the legislation of the Member State of residence*

The United Kingdom will be competent for cash benefits for pensioners, or their family members, resident in a Member State where the pensioner is in receipt of a pension from the United Kingdom and not from the Member State of residence, and:

- (a) the pensioner is only entitled to cash benefits under the legislation of the United Kingdom; or
- (b) the pensioner is entitled to cash benefits under the legislation of two or more States, one of which is the United Kingdom, and the pensioner has been subject to the legislation of the United Kingdom for the longest period of time. If the pensioner has been subject for an equal period of time to the legislation of another State, the United Kingdom will be competent if the pensioner was last subject to its legislation.”.

8. In Article 25—

- (a) in the heading—
  - (i) for “Member States” substitute “States”;
  - (ii) for “benefits in kind” substitute “cash benefits”;
  - (iii) for “latter Member State” substitute “Member State of residence”;
- (b) for “Member States”, in the first place it occurs, substitute “States”;
- (c) for “benefits in kind”, in the first place it occurs, substitute “cash benefits”;
- (d) for the words from “the cost of benefits in kind provided” to “Article 24(2)” substitute “where the United Kingdom has been determined in accordance with Article 24 as competent in respect of that person’s pensions, the United Kingdom is competent for cash benefits”;
- (e) for “that Member State”, in the second place it occurs, substitute “the United Kingdom”.

9. In Article 26—

- (a) for “Member State”, in each place it occurs (including the heading), substitute “State”;
- (b) for “Member States” substitute “States, one of which is the United Kingdom,”;
- (c) for the words from “benefits in kind”, in the first place it occurs, to “costs of the benefits in kind” substitute “cash benefits from the United Kingdom, where the United Kingdom is competent for cash benefits”.

10. Omit Articles 27 and 28.

11. In Article 29, for paragraph 1 substitute—

“1. Where a person resides in a Member State and receives a pension or pensions under the legislation of the United Kingdom and one or more Member States, the competent institution of the United Kingdom is not responsible for paying cash benefits where the competent institution in the Member State of residence is responsible for the cost of

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benefits in kind provided to the person in that Member State. Article 21 shall apply *mutatis mutandis*”.

12. In Article 31, for “Articles 17 to 21” substitute “Article 21”.
13. Omit Articles 32 to 35.
14. In Article 36—
  - (a) for the heading substitute “Article 21 to apply to benefits within this Chapter”;
  - (b) omit paragraphs 1, 2 and 2a.
15. In Article 40, omit paragraphs 1 and 2.
16. In Article 85, omit “Article 35(3) and/or”.
17. Omit Annexes 3 to 5.
- 18.—(1) Annex 11 is amended as follows.
  - (2) Under the heading “FRANCE”, omit paragraph 2;
  - (3) Under the heading “NETHERLANDS”, in paragraph 1—
    - (a) omit points (a) to (e);
    - (b) omit point (h).

## SCHEDULE 2

Regulation 13

### Regulation (EC) No 987/2009

1. Regulation (EC) No 987/2009 is amended as follows.
2. Omit Article 22.
3. In Article 23—
  - (a) for “Member State”, in both places it occurs, substitute “State”;
  - (b) omit “17, 19(1), 20,”.
4. Omit Articles 24 to 26.
5. Omit Article 29.
6. Omit Article 31.
- 7.—(1) Article 32 is amended as follows.
  - (2) In paragraph 1, for “benefits in kind or in cash” substitute “cash benefits”.
  - (3) Omit paragraph 2.
  - (4) Omit paragraph 3.
- 8.—(1) Article 33 is amended as follows.
  - (2) In the heading, omit “in kind and”.
  - (3) In paragraph 1, for “Articles 24 to 27” substitute “Article 27”.
  - (4) Omit paragraph 2.
9. Omit Article 35.



10. Omit Article 41.

11. In Title 4, omit Chapter 1 (reimbursement of the cost of benefits in application of Article 35 and Article 41 of Regulation (EC) No 883/2004).

12.—(1) Annex 1(16) is amended as follows.

(2) Under the heading BELGIUM-UNITED KINGDOM, omit point (b).

(3) Under the heading DENMARK-UNITED KINGDOM, omit “benefits in kind and”.

(4) Under the heading IRELAND-UNITED KINGDOM, omit the words from “Articles 36(3)” to “1408/71) and”.

(5) Omit the heading SPAIN-UNITED KINGDOM and the text under it.

(6) Under the heading FRANCE-UNITED KINGDOM, omit point (b).

(7) Omit the heading ITALY-UNITED KINGDOM and the text under it.

(8) Omit the heading HUNGARY-UNITED KINGDOM and the text under it.

(9) Omit the heading MALTA-UNITED KINGDOM and the text under it.

(10) Omit the heading PORTUGAL-UNITED KINGDOM and the text under it.

(11) Under the heading FINLAND-UNITED KINGDOM, omit the words from “Articles 36(3)” to “in kind) and”.

(12) Under the heading SWEDEN-UNITED KINGDOM, omit the words from “Article 36(3)” to “in kind) and”.

13. Omit Annex 3.

## SCHEDULE 3

Regulation 14

### Regulation (EEC) No 1408/71

1. Regulation (EEC) No 1408/71 is amended as follows.

2.—(1) Article 1 is amended as follows.

(2) In point (f)(i) for “Articles 22(1)(a) and 31” substitute “Article 31”.

(3) In point (u)(i), for “benefits in kind or in cash” substitute “cash benefits”.

3.—(1) Article 19 is amended as follows.

(2) Omit paragraph 1(a).

(3) In paragraph 2, omit the second subparagraph.

4. Omit Article 20.

5. In Article 21(2), omit the second subparagraph.

6.—(1) Article 22 is amended as follows.

(2) In the heading, omit the words from “Need to” to “appropriate treatment”.

(3) In paragraph 1—

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(16) Annex 1 was amended by [Commission Regulation \(EU\) No 1244/2010](#) of 9 December 2010, [Commission Regulation \(EU\) No 1224/2012](#) of 18 December 2012, [Commission Regulation \(EU\) No 1372/2013](#) of 19 December 2013, [Commission Regulation \(EU\) No 1368/2014](#) of 17 December 2014 (as corrected) and [Commission Regulation \(EU\) 2017/492](#) of 21 March 2017.

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- (a) omit point (a);
- (b) in point (c), for “another Member State” substitute “a Member State”;
- (c) omit point (c)(i).
- (4) In paragraph 3, omit the words from “However” to the end of the paragraph.
- 7.** Omit Article 22a(17).
- 8.** Omit Article 24.
- 9.—**(1) Article 25(18) is amended as follows.
  - (2) In paragraph 1—
    - (a) omit “benefits in kind and”;
    - (b) omit point (a).
  - (3) In paragraph 2, for “benefits in kind and in cash” substitute “cash benefits”.
  - (4) In paragraph 3, omit point (i).
- 10.** In Article 25a, omit “benefits in kind and”.
- 11.** Omit Section 4 of Chapter 1.
- 12.—**(1) Article 28 is amended as follows.
  - (2) In paragraph 1, for “conditions” substitute “condition”.
  - (3) Omit paragraph 1(a).
  - (4) In paragraph 2, for “the cost of benefits in kind shall be borne” substitute “cash benefits shall be provided”.
  - (5) In paragraph 2(a), for the words from “a single” to the end of paragraph 2(a) substitute “the United Kingdom only, cash benefits shall be provided by the competent institution of the United Kingdom”.
  - (6) In paragraph 2(b)—
    - (a) for “cost thereof shall be borne” substitute “benefits shall be provided”;
    - (b) for the words from “the competent institution” to “whose legislation” substitute “the competent institution of the United Kingdom where its legislation is the legislation to which”;
    - (c) for the words from “should the application” to the end of the Article, substitute “in these circumstances, where the pensioner has been subject to the legislation of a Member State or Member States for an equal period of time to the time they have been subject to the legislation of the United Kingdom and where the legislation to which the pensioner was last subject was that of the United Kingdom the benefits shall be provided by the competent institution of the United Kingdom”.
- 13.** Omit Article 28a.
- 14.—**(1) Article 29 is amended as follows.
  - (2) In paragraph 1, for “conditions” substitute “condition”.
  - (3) Omit paragraph 1(a).
  - (4) Omit paragraph 2(a).

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(17) Article 22a was substituted by Regulation No 631/2004.

(18) Article 25 was amended by Regulation No 631/2004.

15. Omit Article 30.
16. In Article 31, omit paragraph 1(a).
- 17.—(1) Article 33 is amended as follows.
  - (2) In paragraph 1, omit “28a,”.
  - (3) Omit paragraph 2.
- 18.—(1) Article 34 is amended as follows.
  - (2) In paragraph 1, omit “28a,”.
  - (3) In paragraph 2 for “Articles 27 to 33” substitute “Articles 27 to 29 and 31 and 33”.
19. In Article 34a(19) for the words from “Articles 18” to “and 7” substitute “Articles 18, 19, 22(3), 23 and section 6”.
20. In Article 35, in paragraph 1, omit “26,”.
21. Omit Section 7 of Chapter 1.
22. In Article 52, omit point (a).
- 23.—(1) Article 55 is amended as follows.
  - (2) In paragraph 1, omit point (c).
  - (3) Omit paragraph 1(c)(i).
  - (4) In paragraph 2, omit the second subparagraph.
24. In Article 61, omit paragraphs 1 to 4.
25. Omit Section 4 of Chapter 4.
26. In Article 63a(20), for “Sections 1 to 4” substitute “Sections 1 to 3”.
27. Omit Article 66.
28. In Article 66a(21), for “Articles 64 to 66” substitute “Article 64 and 65”.
29. In Annex 1, in part 2(22), omit the following headings and the text under each—
  - (a) C. CZECH REPUBLIC;
  - (b) D. DENMARK;
  - (c) J. IRELAND;
  - (d) M. LATVIA;
  - (e) N. LITHUANIA;
  - (f) P. HUNGARY;
  - (g) V. ROMANIA;
  - (h) X. SLOVAKIA;
  - (i) Y. FINLAND;

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(19) Article 34a was inserted by Regulation No 307/1999 and substituted by Regulation No 631/2004.

(20) Article 63a was inserted by Regulation No 307/1999.

(21) Article 66a was inserted by Regulation No 307/1999.

(22) Part 2 of Annex 1 was amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (“the Accession Act”) and Regulation (EC) No 629/2006 of the European Parliament and of the Council of 4 April 2006 (“[Regulation No 629/2006](#)”).

- (j) Z. SWEDEN;
- (k) AA. UNITED KINGDOM.

**30.**—(1) Annex 6(**23**) is amended as follows.

- (2) Under the heading A. BELGIUM, omit point 1.
- (3) Under the heading D. DENMARK—
  - (a) omit point 2;
  - (b) omit point 10.
- (4) Under the heading E. GERMANY—
  - (a) omit point 9;
  - (b) omit point 13;
  - (c) omit point 18;
  - (d) omit points 21 to 23.
- (5) Under the heading G. GREECE, omit point 7.
- (6) Under the heading H. SPAIN, omit points 7 and 8.
- (7) Under the heading R. NETHERLANDS, in point 1, omit points (a) to (e).
- (8) Under the heading Y. FINLAND, omit point 4.
- (9) Under the heading AA. UNITED KINGDOM, in point 19(c), omit “(including benefits in kind for which the United Kingdom is the competent State)”.

#### SCHEDULE 4

Regulation 15

#### Regulation (EEC) No 574/72

- 1. Regulation (EEC) No 574/72 is amended as follows.
- 2. In Article 4, omit paragraph 9.
- 3. Omit Article 17(**24**).
- 4. Omit Articles 19 to 23(**25**) and the headings “Implementation of Article 20 of the Regulation”, “Application of the second indent of Article 21(2) of the Regulation” and “Implementation of Article 22 of the Regulation”.
- 5. In Article 24, for “Article 22(1)(a)(ii)” substitute “Article 22(1)”.
- 6.—(1) Article 26(**26**) is amended as follows.
  - (2) Omit paragraph 1.
  - (3) Omit paragraph 3.
  - (4) In paragraph 6, for “benefit in cash and in kind” substitute “cash benefits”.

(23) Annex 6 was amended by Regulation No 1290/97, Regulation No 1223/98, Regulation No 1606/98, Regulation No 1399/1999, Regulation (EC) No 1386/2001 of the European Parliament and of the Council of 5 June 2001, the Accession Act, Regulation No 647/2005, Regulation No 629/2006, Regulation No 1791/2006, Regulation 1992/2006 and Regulation (EC) No 592/2008 of the European Parliament and of the Council of 17 June 2008.

(24) Article 17 was amended by Regulation No 631/2004.

(25) Articles 19a, 22 and 23 were amended, Article 20 was revoked and Article 21 substituted, by Regulation No 631/2004.

(26) Paragraphs 1 and 3 of Article 26 were substituted, and paragraph 1a inserted, by Regulation No 631/2004.

(5) In paragraph 7, for “Article 18(2), (3), (4), (5), (6), (8) and (9)” substitute “Article 18(2), (3), (4), (4A), (5), (6) and (8)”.

7. Omit Articles 27 to 31 and the headings “Implementation of Article 25(3) of the Regulation”, “Implementation of Article 26 of the Regulation”, “Implementation of Articles 28 and 28a of the Regulation”, “Implementation of Article 29 of the Regulation” and “Implementation of Article 31 of the Regulation”.

8. Omit Article 34.

9. Omit Article 60.

10. Omit Articles 62 and 63.

11. Omit Article 66.

12.—(1) Article 93(27) is amended as follows.

(2) for paragraph 1 substitute—

“1. Where cash benefits are paid in accordance with the provisions of the second sentence of Article 18(8) of the implementing Regulation, the actual amount of benefits shall be refunded by the competent institution in the United Kingdom to the institution which provided the said benefits as shown in the accounts of that institution.”.

(3) In paragraph 2, for “In the cases referred to in the second paragraph of Article 21(2), the second subparagraph of Article 22(3) and in Article 31 of the Regulation, and for” substitute “For”.

(4) Omit paragraphs 3 to 6.

13. Omit Articles 94 to 96(28) and the heading “Implementation of Article 63(2) of the Regulation”.

14. Omit Article 99.

15. In Article 100, omit paragraph 2.

16. Omit Article 113.

17.—(1) Annex 2 is amended as follows.

(2) Under the heading A. BELGIUM(29)—

(a) in paragraph 1(a), for “29” substitute “26”;

(b) in paragraph 4—

(i) omit point (a)(i);

(ii) omit point (b)(i).

(3) Under the heading B. BULGARIA—

(a) omit paragraph 1(a);

(b) omit paragraph 3(a).

(4) Under the heading C. CZECH REPUBLIC—

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(27) Article 93(1) was last substituted by Regulation No 1386/2001 and amended by Regulation (EC) No 629/2006 of the European Parliament and of the Council of 5 April 2006.

(28) Article 95 was amended by Regulation No 1223/98.

(29) Relevant amendments to Annex 2 were made by Regulation No 1290/97, Regulation No 1223/98, Regulation No 1606/98, Council Regulation (EC) No 1399/1999 of 29 April 1999 (“Regulation No 1399/1999”), the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (“the Accession Act”), Regulation No 647/2005 and Council Regulation (EC) No 1791/2006 of 20 November 2006 (“Regulation No 1791/2006”).

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- (a) omit paragraph 1(a);
- (b) omit paragraph 3(a).
- (5) Under the heading D. DENMARK—
  - (a) omit point (a)(i);
  - (b) in point (d)(i), omit “benefits in kind and”.
- (6) Under the heading E. GERMANY in paragraph 1—
  - (a) omit point (c);
  - (b) for “Sections 4 and 5” substitute “Section 5”.
- (7) Under the heading I. FRANCE, omit paragraphs 1 and 2.
- (8) Under the heading J. IRELAND, omit paragraph 1.
- (9) Under the heading K. ITALY—
  - (a) in paragraph 1—
    - (i) in part A, omit point (a);
    - (ii) in part B, omit point (a).
  - (b) in paragraph 2—
    - (i) in part A, omit points (a) and (b);
    - (ii) in part B, omit points (a) and (b).
- (10) Under the heading L. CYPRUS, omit paragraph 1.
- (11) Under the heading M. LATVIA, omit paragraph 2.
- (12) Under the heading N. LITHUANIA—
  - (a) in paragraph 1, omit points (a)(i) and (b)(i);
  - (b) in paragraph 4, omit point (a).
- (13) Under the heading O. LUXEMBOURG—
  - (a) omit paragraph 1(a);
  - (b) omit paragraph 6.
- (14) Under the heading P. HUNGARY—
  - (a) in paragraph 1, omit “benefits in kind and”;
  - (b) omit paragraph 2(a);
  - (c) omit paragraph 4(a).
- (15) Under the heading Q. MALTA, omit paragraph 2.
- (16) Under the heading R. NETHERLANDS, omit paragraph 1(a).
- (17) Under the heading S. AUSTRIA, omit paragraph 1(b).
- (18) Under the heading T. POLAND—
  - (a) omit paragraph 1(a);
  - (b) omit paragraph 3(a);
  - (c) omit paragraph 5(a).
- (19) Under the heading U. PORTUGAL, in part B, omit the words from “for benefits in kind” to “civil service staff), Lisboa”.
- (20) Under the heading V. ROMANIA—
  - (a) omit paragraph 1(a);

- (b) omit paragraph 4(a).
- (21) Under the heading W. SLOVENIA, omit paragraph 2.
- (22) Under the heading X. SLOVAKIA—
  - (a) in paragraph 1, omit part B;
  - (b) in paragraph 3, omit part B.
- (23) Under the heading Y. FINLAND, omit paragraph 1(b).
- (24) Under the heading Z. SWEDEN, in paragraph 1—
  - (a) in point (d), for “Articles 60 to 77” substitute “Articles 61 to 77”;
  - (b) in point (e), for “Articles 60 to 77” substitute “Articles 61 to 77”.
- (25) Under the heading AA. UNITED KINGDOM, in paragraph 1, omit the first indent.

**18.**—(1) Annex 3 is amended as follows.

- (2) Under the heading A: BELGIUM<sup>(30)</sup>, in part 1—
  - (a) in paragraph 1—
    - (i) in point (a), for “Articles 17, 18, 22, 25, 28, 29, 30 and 32” substitute “Articles 18, 25 and 32”;
    - (ii) omit point (b);
  - (b) omit paragraph 4.
- (3) Under the heading B. BULGARIA—
  - (a) omit paragraph 1(a);
  - (b) omit paragraph 3(a).
- (4) Under the heading C. CZECH REPUBLIC, omit paragraph 1.
- (5) Under the heading D. DENMARK—
  - (a) in part 1, in point (a), for “Articles 17, 18, 22, 25, 28, 29 and 30” substitute “Articles 18 and 25”;
  - (b) in part 2, omit point (a)(i).
- (6) Under the heading H. SPAIN, omit paragraph 1.
- (7) Under the heading I. FRANCE, in Part A, omit paragraph 1(b).
- (8) Under the heading J. IRELAND, omit paragraph 1.
- (9) Under the heading K. ITALY—
  - (a) in paragraph 1—
    - (i) in part A, omit point (a);
    - (ii) omit part B;
  - (b) in paragraph 2—
    - (i) omit part A (including the heading);
    - (ii) in part B, omit points (a) and (b).
- (10) Under the heading L. CYPRUS, omit paragraph 1.
- (11) Under the heading M. LATVIA, omit paragraph 2.
- (12) Under the heading N. LITHUANIA—

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<sup>(30)</sup> Relevant amendments to Annex 3 were made by Regulation No 1290/97, Regulation No 1223/98, Regulation No 1606/98, the Accession Act, Regulation No 647/2005 and Regulation No 1791/2006.

*Status: This is the original version (as it was originally made).*

- (a) omit paragraph 1(a)(i) and (b)(i);
- (b) omit paragraph 4(a).
- (13) Under the heading O. LUXEMBOURG, in paragraph 1(a), for “Articles 17, 18, 20, 21, 22, 24, 29, 30 and 31” substitute “Articles 18 and 24”.
- (14) Under the heading P. HUNGARY—
  - (a) in Part 1—
    - (i) in paragraph 1, omit “Benefits in kind and”;
    - (ii) omit paragraph 2(a);
    - (iii) omit paragraph 4(a);
  - (b) in Part 2—
    - (i) in paragraph 1, omit “Benefits in kind and”;
    - (ii) omit paragraph 2(a);
    - (iii) omit paragraph 4(a).
- (15) Under the heading Q. MALTA, omit paragraph 2.
- (16) Under the heading R. NETHERLANDS, omit paragraph 1(a).
- (17) Under the heading S. AUSTRIA, omit paragraph 3(a).
- (18) Under the heading T. POLAND—
  - (a) omit paragraph 1(a);
  - (b) omit paragraph 3(a);
  - (c) omit paragraph 5(a).
- (19) Under the heading U. PORTUGAL—
  - (a) in part 1, in paragraph 1, omit “(for sickness and maternity benefits in kind see also Annex 10)”;
  - (b) in part 2, in paragraph 1, omit “(for sickness and maternity benefits in kind see also Annex 10)”;
  - (c) in part 3, in paragraph 1, omit “(for sickness and maternity benefits in kind see also Annex 10)”.
- (20) Under the heading V. ROMANIA, omit paragraph 1.
- (21) Under the heading W. SLOVENIA, omit paragraph 2.
- (22) Under the heading X. SLOVAKIA, in paragraph 1, omit part B.
- (23) Under the heading Y. FINLAND, omit paragraph 1(b).
- (24) Under the heading AA. UNITED KINGDOM, in paragraph 1, omit the first indent.

**19.—(1)** Annex 4 is amended as follows.

- (2) In the words in brackets under the heading, for “Articles 3(1), 4(4) and 122” substitute “Articles 3(1) and 4(4)”**(31)**.
- (3) Under the heading B. BULGARIA—
  - (a) omit paragraph 1(a);
  - (b) omit paragraph 3(a).

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**(31)** Relevant amendments to Annex 4 were made by Regulation No 1290/97, Regulation No 1223/98, Regulation No 1606/98, Regulation No 1399/1999, Regulation No 1791/2006 and the Accession Act.



- (4) Under the heading C. CZECH REPUBLIC, omit paragraph 1.
- (5) Under the heading D. DENMARK, omit paragraph 1(a).
- (6) Under the heading J. IRELAND, omit paragraph 1.
- (7) Under the heading K. ITALY—
  - (a) in paragraph 1, in part A, omit point (a);
  - (b) in paragraph 2—
    - (i) omit part A;
    - (ii) in part B, omit points (a) and (b).
- (8) Under the heading L. CYPRUS, omit paragraph 1.
- (9) Under the heading M. LATVIA, omit paragraph 2.
- (10) Under the heading N. LITHUANIA, omit paragraph 1(a).
- (11) Under the heading O. LUXEMBOURG, in paragraph 6—
  - (a) omit point (a);
  - (b) in point (b), omit “in other cases.”.
- (12) Under the heading P. HUNGARY—
  - (a) in paragraph 1, omit “Benefits in kind and”;
  - (b) omit paragraph 2(a);
  - (c) omit paragraph 4(a).
- (13) Under the heading R. NETHERLANDS, omit paragraph 1(a).
- (14) Under the heading T. POLAND, omit paragraph 1.
- (15) Under the heading V. ROMANIA, omit paragraph 1.
- (16) Under the heading X. SLOVAKIA, omit paragraph 2.
- (17) Under the heading AA. UNITED KINGDOM—
  - (a) under the heading “Great Britain”, for point (a) substitute—
    - “(a) contributions: HM Revenue and Customs, PT Operations, North East England, BX9 1AN, United Kingdom;”;
  - (b) under the heading “Northern Ireland”, for point (a) substitute—
    - “(a) contributions: HM Revenue and Customs, PT Operations, North East England, BX9 1AN, United Kingdom;”.

**20.—(1)** Annex 5 is amended as follows.

- (2) In the words in brackets under the heading, for “Articles 4(5), 5, 53(3), 104, 105(2), 116, 121 and 122” substitute “Articles 53(3), 105(2), 116 and 121”**(32)**.
- (3) Under the heading 26. BELGIUM-UNITED KINGDOM, omit point (b).
- (4) Under the heading 98. DENMARK-UNITED KINGDOM, in paragraph 1—
  - (a) omit “Articles 36(3), 63(3) and 70(3) of the Regulation and”;
  - (b) omit point (a).
- (5) Under the heading 120. GERMANY-UNITED KINGDOM, omit point (b).

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**(32)** Relevant amendments to Annex 5 were made by Regulation No 1290/97, Regulation No 1223/98, Regulation No 1399/1999, Regulation No 1791/2006 and the Accession Act.

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(6) Under the heading 141. ESTONIA-UNITED KINGDOM, for the text substitute “No relevant convention”.

(7) Under the heading 180. SPAIN-UNITED KINGDOM, for the text substitute “No relevant convention”.

(8) Under the heading 198. FRANCE-UNITED KINGDOM, omit point (b).

(9) Under the heading 215. IRELAND-UNITED KINGDOM, for the text substitute “No relevant convention”.

(10) Under the heading 231. ITALY-UNITED KINGDOM, for the text substitute “No relevant convention”.

(11) Under the heading 285. LUXEMBOURG-UNITED KINGDOM—

(a) omit point (a);

(b) omit point (b).

(12) Under the heading 315. NETHERLANDS-UNITED KINGDOM, omit point (b).

(13) Under the heading 336. PORTUGAL-UNITED KINGDOM, for the text substitute “No relevant convention”.

(14) Under the heading 350. FINLAND-UNITED KINGDOM, for the text substitute “No relevant convention”.

(15) Under the heading 351 SWEDEN-UNITED KINGDOM, for the text substitute “No relevant convention”.

**21.** In Annex 6, in the text in brackets under the heading, for “Articles 4(6), 53(1) and 122” substitute “Articles 4(6) and 53(1)”**(33)**.

**22.** In Annex 7**(34)**, in paragraph (b), for “55(3) and 122” substitute “and 55(3)”.

**23.** Omit Annex 9.

**24.**—(1) Annex 10 is amended as follows.

(2) Under the heading A. BELGIUM**(35)**, omit paragraph 6 and 7.

(3) Under the heading B. BULGARIA, omit paragraph 6.

(4) Under the heading C. CZECH REPUBLIC, omit paragraphs 3 and 4.

(5) Under the heading D. DENMARK—

(a) in paragraph 1, omit the second paragraph;

(b) omit paragraph 6.

(6) Under the heading E. GERMANY—

(a) in paragraph 8—

(i) omit point (a);

(ii) omit point (b);

(iii) in point (c), omit “and Article 102(2) of the implementing Regulation”;

(b) omit paragraph 9.

(7) Under the heading F. ESTONIA, omit paragraph 4.

(8) Under the heading G. GREECE—

**(33)** Relevant amendments to Annex 6 were made by Regulation No 1290/97, Regulation No 1791/2006 and the Accession Act.

**(34)** There are amendments to Annex 7 but none are relevant to these Regulations.

**(35)** Relevant amendments to Annex 10 were made by Regulation No 1290/97, Regulation No 1223/98, Regulation No 1606/98, Regulation No 1399/1999, the Accession Act and Regulation No 647/2005.

- (a) omit paragraph 7;
- (b) omit paragraph 9.
- (9) Under the heading H. SPAIN—
  - (a) in paragraph 2, omit “Article 102(2) (except in respect of mariners and unemployment benefits),” and “and Article 113(2)”;
  - (b) in paragraph 3, omit “Article 102(2) (except in respect of unemployment benefits) and”;
  - (c) omit paragraph 6.
- (10) Under the heading I. FRANCE, omit paragraphs 8 and 9.
- (11) Under the heading J. IRELAND—
  - (a) omit paragraph 3;
  - (b) omit paragraph 4(b).
- (12) Under the heading K. ITALY, omit paragraphs 6 and 7.
- (13) Under the heading L. CYPRUS, omit paragraph 3.
- (14) Under the heading M. LATVIA, omit points (c) and (d).
- (15) Under the heading N. LITHUANIA—
  - (a) omit paragraph 4;
  - (b) omit paragraph 5(a);
  - (c) omit paragraph 6.
- (16) Under the heading O. LUXEMBOURG, omit paragraphs 8 and 9.
- (17) Under the heading P. HUNGARY—
  - (a) omit paragraph 9;
  - (b) omit paragraph 12.
- (18) Under the heading Q. MALTA—
  - (a) omit “102(2),”;
  - (b) omit the second paragraph.
- (19) Under the heading R. NETHERLANDS, omit paragraph 3.
- (20) Under the heading S. AUSTRIA—
  - (a) omit paragraph 7;
  - (b) omit paragraph 9.
- (21) Under the heading T. POLAND—
  - (a) omit paragraph 3(a);
  - (b) omit paragraph 4(a);
  - (c) omit paragraph 11;
  - (d) omit paragraph 12.
- (22) Under the heading U. PORTUGAL—
  - (a) in part A, in part I—
    - (i) omit paragraph 7;
    - (ii) omit paragraph 11;
  - (b) in part A, in part II—
    - (i) omit paragraph 7;

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- (ii) omit paragraph 11;
- (c) in part A, in part III—
  - (i) omit paragraph 7;
  - (ii) omit paragraph 11;
- (d) in part B—
  - (i) omit paragraph 6;
  - (ii) omit paragraph 10.
- (23) Under the heading V. ROMANIA—
  - (a) omit paragraph 2(b);
  - (b) omit paragraph 3;
  - (c) omit paragraph 4.
- (24) Under the heading W. SLOVENIA, omit paragraphs 9 and 10.
- (25) Under the heading X. SLOVAKIA—
  - (a) omit paragraph 3(b);
  - (b) omit paragraph 4(d);
  - (c) in paragraph 6, omit the words from “for benefits in kind” to the end of the paragraph;
  - (d) omit paragraph 12;
  - (e) omit paragraph 13(b);
  - (f) omit paragraph 14.
- (26) Under the heading Y. FINLAND, omit paragraph 8.
- (27) Under the heading Z. SWEDEN, omit paragraph 5.
- (28) Under the heading AA. UNITED KINGDOM—
  - (i) in paragraph 1, for “Centre for Non-Residents, Benton Park View, Newcastle upon Tyne, NE98 1ZZ” substitute “PT Operations, North East England, BX9 1AN, United Kingdom”;
  - (ii) in paragraph 2, for “Articles 36 and 63 of the Regulation and Articles 8, 38(1), 70(1), 91(2), 102(2), 110 and 113(2)” substitute “Articles 8, 38(1), 70(1), 91(2) and 110”.

## SCHEDULE 5

Regulation 17

### Savings and transitional provision

#### Interpretation

##### 1.—(1) In this Schedule—

“competent authority” and “competent institution” have the meaning given by Regulation (EC) No 883/2004 or (as the case may be) Regulation (EEC) No 1408/71;

“relevant benefits in kind”—

- (a) in relation to Regulation (EC) No 883/2004, means the benefits in kind referred to in Article 1(va)(i) and (ii) of that Regulation;
- (b) in relation to Regulation (EEC) No 1408/71, means the benefits in kind to which Chapter 1 or 4 of Title 3 of that Regulation applies immediately before exit day;

“the relevant retained direct EU legislation” means—

- (a) Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009, and
- (b) Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 (as extended by Regulation (EC) No 859/2003),

so far as relating to the coordination of the provision of relevant benefits in kind.

(2) A reference in this Schedule to a member State includes—

- (a) where the relevant retained direct EU legislation applies in relation to an EEA state which is not a member State, a reference to the EEA state, and
- (b) where the relevant retained direct EU legislation applies in relation to Switzerland, a reference to Switzerland.

### Cases arising before exit day

2.—(1) The relevant retained direct EU legislation is to continue to apply on and after exit day, subject to the modifications set out in paragraphs 6 to 8, in a case where sub-paragraph (2), (3), (4) or (5) applies.

(2) This sub-paragraph applies where relevant benefits in kind were provided, or began to be provided, in the United Kingdom to an individual before exit day under—

- (a) Chapter 1 or 2 of Title 3 of Regulation (EC) No 883/2004, or
- (b) Chapter 1 or 4 of Title 3 of Regulation (EEC) No 1408/71.

(3) This sub-paragraph applies where relevant benefits in kind were provided, or began to be provided, in a member State (other than the United Kingdom) to an individual before exit day under—

- (a) Chapter 1 or 2 of Title 3 of Regulation (EC) No 883/2004, or
- (b) Chapter 1 or 4 of Title 3 of Regulation (EEC) No 1408/71,

in circumstances where reimbursement for the provision of those benefits fell to be made, or would have fallen to be made had exit day not occurred, under Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71 by the competent institution of the United Kingdom.

(4) This sub-paragraph applies where—

- (a) authorisation for treatment in the United Kingdom was given before exit day under Article 20 of Regulation (EC) No 883/2004 or (as the case may be) Article 22 of Regulation (EEC) No 1408/71, or
- (b) authorisation for treatment in a member State (other than the United Kingdom) was given before exit day by the competent institution of the United Kingdom under Article 20 or (as the case may be) Article 22.

(5) This sub-paragraph applies where—

- (a) a request for authorisation for treatment in a member State (other than the United Kingdom) was made before exit day under Article 20 of Regulation (EC) No 883/2004 or (as the case may be) Article 22 of Regulation (EEC) No 1408/71, and
- (b) the competent institution in the United Kingdom has not given or refused that authorisation for treatment before exit day.

(6) Nothing in sub-paragraphs (1) to (5) requires an institution of the United Kingdom—

- (a) to provide relevant benefits in kind after the later of—
  - (i) the end of the period of one year beginning with the day after the day on which exit day falls;

- (ii) in a case where the authorisation under Article 20 or (as the case may be) Article 22 authorises relevant benefits in kind to be provided within a specified period, the end of the specified period;
- (b) to reimburse an institution of a member State for relevant benefits in kind provided, or a person for payment made for such relevant benefits in kind, after the later of—
  - (i) the end of the period of one year beginning with the day after the day on which exit day falls;
  - (ii) in a case where the authorisation under Article 20 or (as the case may be) Article 22 authorises relevant benefits in kind to be provided within a specified period, the end of the specified period.

### **Cases arising during reciprocal arrangements**

**3.—**(1) The relevant retained direct EU legislation is to continue to apply on and after exit day, subject to the modifications set out in paragraphs 6 to 8, so far as relating to—

- (a) the provision of relevant benefits in kind in the United Kingdom, or
- (b) the provision of relevant benefits in kind in a member State, in circumstances where reimbursement for the provision of those benefits would have fallen to be made by the competent institution of the United Kingdom had exit day not occurred,

subject to sub-paragraph (2).

(2) The relevant retained direct EU legislation, as applied by sub-paragraph (1), has effect so as to impose an obligation on an institution of the United Kingdom as regards the provision of, or reimbursement for the provision of, relevant benefits in kind to an individual only if, and only during the period when, reciprocal arrangements have effect between—

- (a) the United Kingdom, and
- (b) the member State by reference to which the obligation arises in the case of the individual.

(3) Sub-paragraph (2) does not affect cases to which paragraph 2 applies.

(4) For the purposes of this paragraph—

- (a) arrangements between the United Kingdom and a member State relating to the coordination of the provision of relevant benefits in kind are reciprocal arrangements if and only if the member State is included in the list maintained by the Secretary of State under paragraph 4;
- (b) reciprocal arrangements between the United Kingdom and a member State are to be treated as beginning and ceasing to have effect at the times specified in the list maintained by the Secretary of State under paragraph 4.

### **List for the purposes of paragraph 3**

**4.—**(1) The Secretary of State must maintain a list for the purposes of paragraph 3.

(2) The list must specify in relation to each member State listed in it—

- (a) when reciprocal arrangements between the member State and the United Kingdom are to be treated as beginning to have effect;
- (b) when reciprocal arrangements between the member State and the United Kingdom are to be treated as ceasing to have effect.

(3) The time specified in the list as the time when reciprocal arrangements are to be treated as beginning to have effect may not be before exit day.

(4) The time specified in the list as the time when reciprocal arrangements are to be treated as ceasing to have effect may not be after 31 December 2020.

(5) The Secretary of State may remove a member State from the list before the time specified in the list as the time when the member State's reciprocal arrangements are to be treated as beginning to have effect.

(6) The Secretary of State may change a time specified in the list (but not after the time specified).

(7) The Secretary of State must publish the list and keep it up to date.

(8) For "reciprocal arrangements" see paragraph 3.

### **Savings provision for cases arising during reciprocal arrangements**

5.—(1) The relevant retained direct EU legislation is to continue to apply on and after exit day (and despite reciprocal arrangements ceasing to have effect), subject to the modifications set out in paragraphs 6 to 8, in a case where sub-paragraph (2), (3), (4) or (5) applies.

(2) This sub-paragraph applies where relevant benefits in kind were provided, or began to be provided, in the United Kingdom to an individual during the relevant period under—

(a) Chapter 1 or 2 of Title 3 of Regulation (EC) No 883/2004 (as modified by paragraph 6), or

(b) Chapter 1 or 4 of Title 3 of Regulation (EEC) No 1408/71 (as modified by paragraph 6).

(3) This sub-paragraph applies where relevant benefits in kind were provided, or began to be provided, in a member State to an individual during the relevant period, in circumstances where reimbursement for the provision of those benefits fell to be made, or would have fallen to be made had the relevant period not ended, by the competent institution of the United Kingdom under Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71 (as modified by paragraph 6).

(4) This sub-paragraph applies where—

(a) authorisation for treatment in the United Kingdom under Article 20 of Regulation (EC) No 883/2004 or (as the case may be) Article 22 of Regulation (EEC) No 1408/71 (as modified by paragraph 6) is given during the relevant period by an institution of a member State, or

(b) authorisation for treatment in a member State is given during the relevant period by the competent institution of the United Kingdom under Article 20 or (as the case may be) Article 22 (as modified by paragraph 6).

(5) This sub-paragraph applies where—

(a) a request for authorisation for treatment in a member State is made during the relevant period under Article 20 of Regulation (EC) No 883/2004 or (as the case may be) Article 22 of Regulation (EEC) No 1408/71 (as modified by paragraph 6), and

(b) the competent institution of the United Kingdom has not given or refused that authorisation for treatment before the end of the relevant period.

(6) Nothing in sub-paragraphs (1) to (5) requires an institution of the United Kingdom—

(a) to provide relevant benefits in kind after the later of—

(i) the end of the period of one year beginning with the day after the end of the relevant period;

(ii) in a case where the authorisation for treatment in the United Kingdom authorises relevant benefits in kind to be provided within a specified period, the end of the specified period;

(b) to reimburse an institution of a member State for relevant benefits in kind provided, or a person for payment made for such relevant benefits in kind, provided after the later of—

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- (i) the end of the period of one year beginning with the day after the end of the relevant period;
  - (ii) in a case where the authorisation for treatment in a member State requires that the relevant benefits in kind be provided within a specified period, the end of the specified period.
- (7) This paragraph does not apply in a case to which paragraph 2 applies.
- (8) In this paragraph—
- “reciprocal arrangements” has the meaning given by paragraph 3;
- “relevant period”, in relation to a member State, means the period during which reciprocal arrangements between the United Kingdom and the member State have effect.

### **Modifications of the relevant retained direct EU legislation**

**6.—**(1) In a case falling within paragraph 2, 3 or 5, the relevant retained direct EU legislation has effect—

- (a) with the modifications set out in the following sub-paragraphs and paragraphs 7 and 8,
- (b) without the amendments and revocations of that legislation in Schedules 1 to 4 to these Regulations or other regulations under section 8 of the European Union (Withdrawal) Act 2018, and
- (c) as if—
  - (i) the amendments and revocations of the EEA agreement, and
  - (ii) the modifications of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, done at Luxembourg on 21st June 1999,

made by regulation 16 of these Regulations or regulations 3 and 4 of the Social Security Coordination (Regulation (EC) No 883/2004, EEA Agreement and Swiss Agreement) (Amendment) (EU Exit) Regulations 2019, so far as relating to the coordination of the provision of relevant benefits in kind, had not been made.

(2) A reference in the relevant retained direct EU legislation to a member State is to be read as if the United Kingdom were a member State.

(3) Where a provision of the relevant retained direct EU legislation imposes an obligation on the United Kingdom or an authority, institution or other body of the United Kingdom the performance of which would have been, immediately before exit day, wholly or partly dependent on a step being taken or a requirement being satisfied by—

- (a) an EU institution<sup>(36)</sup>,
- (b) a member State or an authority, institution or other body of a member State, or
- (c) any other person or body,

the United Kingdom or an authority, institution or other body of the United Kingdom is not required to perform the obligation unless that step is taken or the requirement is satisfied.

- (4) A provision of the relevant retained direct EU legislation that requires effect to be given to—
- (a) a list or other document issued by the Administrative Commission,
  - (b) a decision or determination made by the Administrative Commission,
  - (c) a procedure or other method established by the Administrative Commission,

<sup>(36)</sup> See Schedule 1 to the Interpretation Act 1978 (c. 30) as to the meaning of “EU institution”.



(d) an opinion given by the Administrative Commission, or  
(e) rules made or a measure taken by the Administrative Commission,  
has effect as a provision that permits an authority, institution or other body of the United Kingdom to have regard to the act done by the Administrative Commission, whether the act is done before, or on or after, exit day.

(5) The relevant retained direct EU legislation is not to be treated by virtue of this paragraph as—

- (a) conferring powers or imposing duties on an EU institution in relation to the United Kingdom,
- (b) conferring powers or imposing duties on a member State or an authority, institution or other body of a member State in relation to the United Kingdom,
- (c) requiring the United Kingdom or an authority, institution or other body of the United Kingdom to provide information to, or to take any other step as regards, an EU institution, or
- (d) requiring the United Kingdom or an authority, institution or other body of the United Kingdom to publish material in the Official Journal of the European Union.

(6) Sub-paragraphs (2) to (5) are subject to the specific modifications in paragraphs 7 and 8.

(7) In this paragraph, “the Administrative Commission” means the Administrative Commission for the Coordination of Social Security Systems (see Title 4 of Regulation (EC) No 883/2004) or, where functions have been assumed by the EEA Joint Committee, the EEA Joint Committee; and references in this paragraph to an EU institution are to be read accordingly.

#### **Regulation (EC) No 987/2009**

7. Regulation (EC) No 987/2009 has effect as if—

- (a) Articles 4, 5(4) and 6(3) were omitted;
- (b) in Article 9(2), the words “shall be notified to the Administrative Commission and” were omitted;
- (c) Article 62(2) required the amount of a refund to be determined on a basis agreed between the United Kingdom and the member State in question or between their competent authorities;
- (d) Article 65 were omitted;
- (e) the reference in Article 67(2) to publication in the Official Journal of the European Union were a reference to notification sent to the member State concerned;
- (f) Articles 67(7), 69, 75(3), 86, 88 and 89 were omitted;
- (g) in Article 90, the second sentence required the date to be fixed by agreement between the United Kingdom and the member State in question or between their competent authorities;
- (h) Articles 91, 92 and 95 were omitted;
- (i) Annex 4 were omitted.

#### **Regulation (EEC) No 574/72**

8. Regulation (EEC) No 574/72 has effect as if—

- (a) Article 93(3) required the amount of a refund to be determined on a basis agreed between the United Kingdom and the member State in question or between their competent authorities;

- (b) the reference in Article 100(2) to the date of publication in the Official Journal of the European Union were a reference to the date on which notification is given to the member State in question;
- (c) Articles 104(2) and 105(2) provided for Annex 5 to be treated as if an agreement described in Article 104(2) or 105(2), to which the United Kingdom or the competent authority of the United Kingdom is party, were entered in the Annex when it was made.

### **Provision for United Kingdom legislation**

9. The legislation repealed or revoked by Parts 2 and 3 of these Regulations is to have effect on and after exit day, as if it had not been repealed or revoked by Parts 2 and 3, so far as necessary for the purposes of provision made by paragraphs 2 to 8 of this Schedule.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (d), (e) and (g) and (3) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 amends primary legislation and Part 3 amends subordinate legislation relating to the coordination of the provision of benefits in kind relating to healthcare.

Part 4 relates to rights and other matters which become part of domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018. Part 5 amends or revokes provisions of retained EU Regulations relating to the coordination of the provision of benefits in kind. Part 6 revokes provisions of the EEA agreement.

Part 7 contains savings and transitional provisions.

An impact assessment has been prepared in relation to these Regulations and copies can be obtained from the Department of Health and Social Care, 39 Victoria Street, London, SW1H 0EU.