

Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

PART TWO

CITIZENS' RIGHTS

TITLE III

COORDINATION OF SOCIAL SECURITY SYSTEMS

Article 30

Persons covered

- 1 This Title shall apply to the following persons:
 - a Union citizens 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 a Member State at the end of the transition period, as well as their family members and survivors;
 - c Union citizens who reside in the United Kingdom and are subject to the legislation of a Member State at the end of the transition period, as well as their family members and survivors;
 - d United Kingdom nationals who reside in a Member 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) Union citizens 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⁽¹⁾, are subject to the legislation of a Member State, as well as their family members and survivors; or
 - (ii) United Kingdom nationals who pursue an activity as an employed or self-employed person in one or more Member 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 a Member 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;
 - g nationals of third countries, as well as members of their families and survivors, who are in one of the situations described in points (a) to (e), provided that they fulfil the conditions of Council Regulation (EC) No 859/2003⁽²⁾.
- 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 a Member 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 10 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 13 of this Agreement, or a right to work in their State of work under Article 24 or 25 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 31

Social security coordination rules

1 The rules and objectives set out in Article 48 TFEU, Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council⁽³⁾ shall apply to the persons covered by this Title.

The Union and the United Kingdom shall take due account of the Decisions and 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 9 of this Agreement, for the purposes of this Title, the definitions in Article 1 of Regulation (EC) No 883/2004 shall apply.

3 With regard to nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003, as well as their family members or survivors within the scope of this Title, the references to Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 in this Title shall be understood as references to Council Regulation (EEC) No 1408/71⁽⁴⁾ and Council Regulation (EEC) No 574/72⁽⁵⁾ respectively. References to specific provisions of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 shall be understood as references to the corresponding provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72.

Article 32

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 30:

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) Union citizens, as well as stateless persons and refugees residing in a Member State and nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003, 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 and nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003, who have been subject to the legislation of a Member 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 14, *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 a Member 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) Union citizens, stateless persons and refugees residing in a Member State as well as nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003 and reside in a Member State, who are subject to the legislation of a Member 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 and nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003 and reside in the United Kingdom, who are subject to the legislation of the United Kingdom and have family members residing in a Member 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 1 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 33

Nationals of Iceland, Liechtenstein, Norway and Switzerland

1 The provisions of this Title applicable to Union citizens shall apply to nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation provided that:

- a Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation, as applicable, have concluded and apply corresponding agreements with the United Kingdom which apply to Union citizens; and
- b Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation, as applicable, have concluded and apply corresponding agreements with the Union which apply to United Kingdom nationals.

2 Upon notification from the United Kingdom and from the Union of the date of entry into force of the agreements referred to in paragraph 1 of this Article, the Joint Committee established by Article 164 ("Joint Committee") shall set the date from which the provisions of this Title shall apply to the nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation, as applicable.

Article 34

Administrative cooperation

1 By way of derogation from Articles 7 and 128(1), as of the date of entry into force of this Agreement, the United Kingdom shall have the status of observer in the Administrative Commission. It may, where the items on the agenda relating to this Title concern the United Kingdom, send a representative, to be present in an advisory capacity, to the meetings of the Administrative Commission and to the meetings of the bodies referred to in Articles 73 and 74 of Regulation (EC) No 883/2004 where such items are discussed.

2 By way of derogation from Article 8, the United Kingdom shall take part in the Electronic Exchange of Social Security Information (EESSI) and bear the related costs.

Article 35

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, insofar as they relate to persons not covered by Article 30, 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 30 or 32 when the event occurred.

Article 36

Development of law and adaptations of Union acts

1 Where Regulations (EC) No 883/2004 and (EC) No 987/2009 are amended or replaced after the end of the transition period, references to those Regulations in this Agreement shall be understood as referring to those Regulations as amended or replaced, 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 and align it to any act amending or replacing Regulations (EC) No 883/2004 and (EC) No 987/2009 as soon as such act is adopted by the Union. To that end, the Union shall, as soon as possible after adoption, inform the United Kingdom within the Joint Committee of any act amending or replacing those Regulations.

2 By way of derogation from the second subparagraph of paragraph 1, the Joint Committee shall assess the effects of an act amending or replacing Regulations (EC) No 883/2004 and (EC) No 987/2009 where that act:

- a amends or replaces the matters covered by Article 3 of Regulation (EC) No 883/2004; or
- b makes a cash benefit exportable where that cash benefit was non-exportable under Regulation (EC) No 883/2004 at the end of the transition period, or makes a cash benefit non-exportable, where that cash benefit was exportable at the end of the transition period; or
- c makes a cash benefit exportable for an unlimited period of time, where that cash benefit was exportable only for a limited period of time under Regulation (EC) No 883/2004 at the end of the transition period, or makes a cash benefit exportable only for a limited period of time, where that cash benefit was exportable for an unlimited period of time under that Regulation at the end of the transition period.

In making its assessment, the Joint Committee shall consider in good faith the scale of the changes referred to in the first subparagraph of this paragraph, as well as the importance of the continued good functioning of Regulations (EC) No 883/2004 and (EC) No 987/2009 between the Union and the United Kingdom and the importance of there being a competent State in relation to individuals within the scope of Regulation (EC) No 883/2004.

If the Joint Committee so decides within 6 months from receiving the information given by the Union pursuant to paragraph 1, Part II of Annex I to this Agreement shall not be aligned to the act referred to in the first subparagraph of this paragraph.

For the purposes of this paragraph:

- a "exportable" means payable under Regulation (EC) No 883/2004 to or in relation to a person residing in a Member State or in the United Kingdom if the institution responsible for providing the benefit is not situated there; "non-exportable" shall be interpreted accordingly; and
- b "exportable for an unlimited period of time" means exportable for as long as the conditions giving rise to the entitlements are met.

3 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 Union thereof within the Joint Committee.

4 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. To that end, as soon as possible after adoption of decisions and recommendations of the Administrative Commission, the Union shall inform the United Kingdom thereof within the Joint Committee. Such amendments shall be made by the Joint Committee on a proposal of the Union or the United Kingdom.

- (1) 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) Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality ([OJ L 124, 20.5.2003, p. 1](#)).
- (3) 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](#)).
- (4) 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 ([OJ L 149, 5.7.1971, p. 2](#)).
- (5) Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community ([OJ L 74, 27.3.1972, p. 1](#)).