

**Agreement on arrangements regarding citizens' rights 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 and the EEA Agreement**

## 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,

WISHING to set out necessary arrangements consequent upon the withdrawal of the United Kingdom from the Union and the EEA Agreement,

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 exit day, and to ensure that their rights under this Agreement are enforceable and based on the principle of non-discrimination, recognising also that certain rights deriving from periods of social security insurance should be protected,

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,

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”) and the Agreement on the European Economic Area<sup>1</sup> (“EEA Agreement”) for the protection of rights of the nationals of Iceland, the Principality of Liechtenstein (“Liechtenstein”), the Kingdom of Norway (“Norway”) and the United Kingdom.

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>;
- (e) “exit day” means the point in time at which the United Kingdom ceases to be a Member State of the Union and a Contracting Party to the EEA Agreement;
- (f) “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, any reference in this Agreement to the United Kingdom or its territory shall be understood as referring to:

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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.

- (a) the United Kingdom;
  - (b) Gibraltar, to the extent that the EEA Agreement was applicable to it immediately prior to exit day.
2. Unless otherwise provided in this Agreement, or in provisions of the EEA 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 implementation and 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.

#### 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

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 immediately prior to exit day.
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 immediately prior to exit day.

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 immediately prior to exit day.

## 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 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 exit day 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 exit day and in which they continue to reside thereafter;
- (d) “State of work” means:
  - (i) in respect of EEA EFTA nationals, the United Kingdom, if they pursued an economic activity as frontier workers there before exit day 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 exit day and in which they continue to do so thereafter;

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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).

- (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 exit day 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 exit day 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 exit day 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 exit day and continue to do so thereafter;
  - (e) family members of the persons referred to in points (a) and (b), provided that they fulfil one of the following conditions:
    - (i) they resided in the host State in accordance with the EEA Agreement before exit day and continue to reside there thereafter;
    - (ii) they were directly related to a person referred to in points (a) or (b) and resided outside the host State before exit day, 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) or (b) of this paragraph;
    - (iii) they were born to, or legally adopted by, persons referred to in points (a) or (b) after exit day, 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) or (b) of this paragraph and fulfil one of the following conditions:
      - both parents are persons referred to in points (a) or (b);
      - one parent is a person referred to in points (a) or (b) and the other is a national of the host State; or
      - one parent is a person referred to in points (a) or (b) 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 exit day 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 exit day 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 exit day, 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) or (b) of paragraph 1 of this Article has a durable relationship, duly attested, where that partner resided outside the host State before exit day, provided that the relationship was durable before exit day 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 exit day 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.

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 24 of this Agreement.
3. Where the host State requires family members who join the EEA EFTA national or United Kingdom national after exit day 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 exit day 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 exit day 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 exit day shall be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence.

## Article 16

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## 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, immediately prior to exit day, 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) of this Agreement.
2. The rights provided for in this Title for the family members who are dependants of EEA EFTA nationals or United Kingdom nationals before exit day, 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 exit day, for persons residing in the host State before exit day.

For persons who have the right to commence residence after exit day 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 exit day, 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; the acceptance of such passport shall not be made conditional upon any criteria other than that of validity. Where the passport is retained by the competent authorities of the host State while the application is pending, the host State shall return the passport upon application without delay, before the decision on the application has been taken;
- (j) supporting documents other than a valid passport, 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 a valid passport, 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 a valid passport, 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 a valid passport, 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 exit day;
  - (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 exit day 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 exit day 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 18 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 available, administrative redress procedures in the host State against any decision refusing to grant the residence status. The redress procedures shall together 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 18.

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 19 on safeguards and right of appeal, subject to the conditions set out in Article 18(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

### 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 exit day, shall be considered in accordance with Chapter VI of Directive 2004/38/EC.<sup>5</sup>
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 exit day, 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 19 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

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<sup>5</sup> For the purpose of this provision, Article 31(3) of Directive 2004/38/EC shall be interpreted in accordance with point (r) of Article 17(1) of this Agreement.

been handed down in the case of judicial redress sought against any rejection of such an application.

## Article 19

### 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.<sup>6</sup>

## Article 20

### 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 21

### 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.

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<sup>6</sup> For the purpose of this provision, Article 31(3) of Directive 2004/38/EC shall be interpreted in accordance with point (r) of Article 17(1) of this Agreement.



## CHAPTER 2

### Rights of workers and self-employed persons

#### Article 22

##### 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>7</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>7</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 23

### 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 22(1) of this Agreement.
2. Article 22(2) shall apply to direct descendants of self-employed workers.
3. Article 22(3) shall apply to self-employed frontier workers.

## Article 24

### Issuance of a document identifying frontier workers' rights

1. The State of work may require EEA EFTA nationals and UK nationals who are entitled to rights as frontier workers under this Title to apply for a document conferring their rights under this Title. Such EEA EFTA nationals and UK nationals shall have the right to be issued with such a document.
2. Where the State of work requires such a document, the deadline for submitting the application shall not be less than 6 months from exit day. Until the end of that period, and pending a final decision on any application made during that period, all rights provided for in this Part shall be deemed to apply to EEA EFTA nationals or United Kingdom nationals.
3. Points (a), (d) to (g), (i) to (j), (n) to (p) and (r) of Article 17(1) shall apply *mutatis mutandis*.

## CHAPTER 3

### Professional qualifications

#### Article 25

##### Recognised professional qualifications<sup>8</sup>

1. The recognition, before exit day, 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>9</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>10</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>11</sup> in respect of the approval of statutory auditors;
  - (d) Council Directive 74/556/EEC<sup>12</sup> in respect of the acceptance of evidence of the knowledge and ability necessary to take up or pursue the activities of self-

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<sup>8</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>9</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>10</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>11</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>12</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).

employed persons and of intermediaries engaging in the trade and 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 26

### 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 exit day 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 United Kingdom ceasing to be entitled to access networks, information systems and databases established on the basis of Union law to ensure that procedures under this Article may be completed.

## Article 27

### Administrative cooperation on recognition of professional qualifications

With regard to the pending applications referred to in Article 26, the United Kingdom and the EEA EFTA States shall cooperate in order to facilitate the application of Article 26. 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 26.

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TITLE III  
COORDINATION OF SOCIAL SECURITY SYSTEMS

Article 28

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 immediately prior to exit day, as well as their family members and survivors;
  - (b) United Kingdom nationals who are subject to the legislation of an EEA EFTA State immediately prior to exit day, 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 immediately prior to exit day, 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 immediately prior to exit day, 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 immediately prior to exit day, and who, based on Title II of Regulation (EC) No 883/2004 of the European Parliament and of the Council<sup>13</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 an employed or self-employed person in one or more EEA EFTA States immediately prior to exit day, 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.
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.

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<sup>13</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).

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 22 or 23 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 29

### 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>14</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 the Annex 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.

## Article 30

### 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 28:
  - (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:

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<sup>14</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).

- (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 exit day, 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 exit day, as well as their family members and survivors;

for the purposes of the aggregation of periods, periods completed both before and after exit day 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 exit day, 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 immediately prior to exit day 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 immediately prior to exit day 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 immediately prior to exit day;
  - (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 immediately prior to exit day;
- (e) in the situations set out in point (d)(i) and (ii) of this paragraph, for any persons who have rights as family members immediately prior to exit day 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 31

### 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 28 that:

- (a) occurred before exit day; or
- (b) occur after exit day and relate to persons who were covered by Articles 28 or 30 when the event occurred.

## Article 32

### 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 exit day 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 the Annex to this Agreement.

Where an act amending or replacing Regulations (EC) No 883/2004 and (EC) No 987/2009 has been incorporated into and is in force under the EEA Agreement, the Joint Committee established by Article 37 (“Joint Committee”) shall assess the effects of the act and shall consider whether it is appropriate to revise Part II of the Annex to this Agreement in order to align it to that act. To that end, the EEA EFTA States shall, as soon as possible after the process of incorporating such an act has been initiated, inform the United Kingdom.

If the Joint Committee does not take a decision to align Part II of the Annex to this Agreement to the act referred to, Part II of the Annex to this Agreement shall not be aligned to that act.

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 the Annex to this Agreement. As soon as possible after the adoption of any changes in domestic provisions of relevance to Part III of the Annex 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 the Annex. The Joint Committee may amend Part I of the Annex to reflect any new Decision or Recommendation adopted by the Administrative Commission and incorporated into and in force under the EEA Agreement as the Joint Committee considers appropriate. 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.

### Article 33

#### Review of Title III

The Parties shall jointly review the provisions of Title III in the Joint Committee on a regular basis. In carrying out the review, the Joint Committee shall consider whether this Title remains the most appropriate means of securing social security coordination for the persons covered or whether this Title should be amended or replaced.

TITLE IV  
OTHER PROVISIONS

Article 34

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 35

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 Article shall not apply to Title III.

Article 36

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

### INSTITUTIONAL AND FINAL PROVISIONS

#### TITLE I

#### INSTITUTIONAL PROVISIONS

##### Article 37

##### 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. 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 40;
  - (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 38.
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) and (f) of paragraph 4;
  - (c) change the tasks assigned to the specialised committees;
  - (d) in relation to Part Two, until the end of the fourth year following the entry into force of this Agreement, 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.

## Article 38

### 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 notifies the Depository 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 II  
DISPUTE SETTLEMENT

Article 39

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 40

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. The Parties shall provide the Joint Committee 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 III  
FINAL PROVISIONS

Article 41

Annex

The Annex shall form an integral part of this Agreement.

Article 42

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 43

Entry into force and provisional application

1. This Agreement is subject to approval in accordance with the respective legal requirements of the Parties. The instruments of approval shall be deposited with the Depositary.
2. This Agreement shall only enter into force in the event that there is no agreement covering citizens' rights between the Union and the United Kingdom under Article 50 of the Treaty on European Union.
3. Subject to paragraph 2, this Agreement shall enter into force in relation to those Parties which have deposited their instruments of approval, on the later of:
  - (i) exit day; or
  - (ii) the date on which at least one EEA EFTA State and the United Kingdom have deposited their instruments of approval with the Depositary.
4. In relation to an EEA EFTA State depositing its instrument of approval after this Agreement has entered into force according to paragraph 3, the Agreement shall enter into force on the day following the deposit of its instrument.
5. Any Party may agree to provisionally apply this Agreement, pending entry into force of this Agreement for that Party, by notifying the Depositary. Such provisional application shall take effect on the later of:
  - (i) exit day, provided that the United Kingdom and at least one EEA EFTA State have deposited such notification; or

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- (ii) the date on which the United Kingdom and at least one EEA EFTA State have deposited their notifications.
6. A Party may terminate the provisional application of this Agreement by written notification to the Depositary, which shall notify all other Parties. Such termination shall take effect on the first day of the second month following that notification.

Done on [dd/mm/yyyy].

## ANNEX

### *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>15</sup> as amended by:

- Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009;<sup>16</sup>
- Commission Regulation (EU) No 1244/2010 of 9 December 2010;<sup>17</sup>
- Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012;<sup>18</sup>
- Commission Regulation (EU) No 1224/2012 of 18 December 2012;<sup>19</sup>
- Council Regulation (EU) No 517/2013 of 13 May 2013;<sup>20</sup>
- Commission Regulation (EU) No 1372/2013 of 19 December 2013,<sup>21</sup> as amended by Commission Regulation (EU) No 1368/2014 of 17 December 2014;<sup>22</sup>
- Commission Regulation (EU) 2017/492 of 21 March 2017.<sup>23</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>24</sup>, as amended by:

- Commission Regulation (EU) No 1244/2010 of 9 December 2010;<sup>25</sup>
- Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012;<sup>26</sup>
- Commission Regulation (EU) No 1224/2012 of 18 December 2012;<sup>27</sup>
- Commission Regulation (EU) No 1372/2013 of 19 December 2013;<sup>28</sup>
- Commission Regulation (EU) No 1368/2014 of 17 December 2014;<sup>29</sup>

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<sup>15</sup> OJ L 166, 30.4.2004, p. 1.

<sup>16</sup> OJ L 284, 30.10.2009, p. 43.

<sup>17</sup> OJ L 338, 22.12.2010, p. 35.

<sup>18</sup> OJ L 149, 8.6.2012, p. 4.

<sup>19</sup> OJ L 349, 19.12.2012, p. 45.

<sup>20</sup> OJ L 158, 10.6.2013, p. 1.

<sup>21</sup> OJ L 346, 20.12.2013, p. 27.

<sup>22</sup> OJ L 366, 20.12.2014, p. 15.

<sup>23</sup> OJ L 76, 22.3.2017, p. 13.

<sup>24</sup> OJ L 284, 30.10.2009, p. 1.

<sup>25</sup> OJ L 338, 22.12.2010, p. 35.

<sup>26</sup> OJ L 149, 8.6.2012, p. 4.

<sup>27</sup> OJ L 349, 19.12.2012, p. 45.

<sup>28</sup> OJ L 346, 20.12.2013, p. 27.

- Commission Regulation (EU) 2017/492 of 21 March 2017.<sup>30</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 92nd 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 366th 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**

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.

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<sup>29</sup> OJ L 366, 20.12.2014, p. 15.

<sup>30</sup> OJ L 76, 22.3.2017, p. 13.

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”.