

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4631 of 25 October, 2019

LEGAL NOTICE NO. 213 OF 2019

EUROPEAN UNION (WITHDRAWAL) ACT 2019

SOCIAL SECURITY COORDINATION (REGULATION (EC) No 883/2004, EEA AGREEMENT AND SWISS AGREEMENT) (AMENDMENT) (EU EXIT) REGULATIONS 2019

In exercise of the powers conferred upon him by section 11(1) of, and Schedule 3 to, the European Union (Withdrawal) Act 2019 the Minister has made the following Regulations—

Title, commencement and interpretation.

1.(1) These Regulations may be cited as the Social Security Coordination (Regulation (EC) No 883/2004, EEA Agreement and Swiss Agreement) (Amendment) (EU Exit) Regulations 2019 and come into operation on exit day.

(2) In these Regulations, “Regulation (EC) No 883/2004” means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

Amendment of Regulation (EC) No 883/2004.

2. The Schedules to these Regulations amend Regulation (EC) No 883/2004 as follows—

- (a) Schedule 1 amends Title 1 (general provisions);
- (b) Schedule 2 substitutes Title 2 (determination of the legislation applicable);
- (c) Schedule 3 amends Title 3 (special provisions concerning the various categories of benefits);
- (d) Schedule 4 amends Title 5 (miscellaneous provisions);
- (e) Schedule 5 amends Title 6 (transitional and final provisions);
- (f) Schedule 6 amends the Annexes.

Amendment of the EEA Agreement.

3.(1) Annex 6 to the EEA agreement is amended as follows.

(2) Omit part 2 of the section headed “SECTORAL ADAPTATIONS”.

(3) In Part 1 (general social security coordination – acts referred to)—

(a) in paragraph 1—

- (i) for “as corrected by” in the first place it occurs to the end of point (d) substitute “as retained by the European Union (Withdrawal) Act 2019 and as amended by regulations made under that Act”;
- (ii) omit points (g) to (k);
- (iii) in point (l) omit the headings ICELAND and NORWAY and the text under each;
- (iv) omit from “modalities for the participation of EFTA states” to the end of the paragraph.

(b) in paragraph 2 for “as amended by” to the end of the paragraph substitute “as retained by the European Union (Withdrawal) Act 2019 and as amended by regulations made under that Act”.

Modification of the Swiss Agreement.

4.(1) As it applies in Gibraltar, the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, done at Luxembourg on 21st June 1999 is to be read as if the following modifications were made.

(2) In Annex 2 (co-ordination of social security schemes) in Article 1 as if after paragraph 2 there is added—

“3. References to legal acts of the European Union in section A of this Annex are references to those acts as retained by the European Union (Withdrawal) Act 2019 and as amended by regulations made under that Act.”.

(3) In section A (legal acts referred to) as if there are the following omissions—

(a) in paragraph (1)—

- (i) from “as amended by” to the end of point (c);
- (ii) from point (e) to the end of the paragraph;

(b) in paragraph (2) from “as amended by” to “health care benefits”.

Revocation.

5. Title 4 (Administrative Commission and Advisory Committee) of Regulation (EC) No 883/2004 is revoked.

SCHEDULE 1

Regulation 2(a)

Amendments to Title 1: General Provisions

1. In Article 1—

(a) before point (a) insert—

“(za) “State” means Gibraltar or a Member State;”;

(b) in points (a) to (e) for “Member State” in each place it occurs substitute “State”;

(c) for point (f) substitute—

“(f) “frontier worker” means any person pursuing an activity as an employed or self-employed person—

(i) in Gibraltar and who resides in a Member State to which the person returns as a rule daily or at least once a week; or

(ii) in a Member State and who resides in Gibraltar to which the person returns as a rule daily or at least once a week;”;

(d) in point (i) in paragraph 2 for “Member State” substitute “State”;

(e) in point (l)—

(i) for “Member State” in the first place it occurs substitute “State”;

(ii) omit the second subparagraph;

(f) in point (m) for “Member State” in both places it occurs substitute “State”;

(g) omit point (n);

(h) in points (p) to (s) for “Member State” in each place it occurs substitute “State”.

2. After Article 1 insert—

“Article 1A

Performance of obligations dependent on Member State information

1. This Article applies where, in the view of the competent authority in Gibraltar, performance of an obligation under this Regulation by an institution in Gibraltar is wholly or partly dependent on information held by an institution or authority in a Member State.

2. The institution in Gibraltar must take all reasonable steps to obtain the information from the institution or authority in the Member State.
 3. If the institution in Gibraltar complies with the duty in paragraph 2 but is unable to obtain the information and the institution considers that the claimant could provide the information, it must inform the claimant that it has been unable to obtain the information and ask the claimant:
 - (a) to take reasonable steps to obtain the information from the institution or authority in the Member State; or
 - (b) where it is not possible for the claimant to obtain the information from the institution or authority in the Member State, to provide such relevant information or evidence as the claimant has.
 4. The institution in Gibraltar is not required to perform the obligation if it complies with the duty in paragraphs 2 or 3 but is unable to obtain the information and:
 - (a) the claimant does not provide it within a reasonable time; or
 - (b) the claimant does provide it but the institution is of the view that the information is not accurate or is incomplete.”.
3. In Article 2—
- (a) for “Member State” in each place it occurs substitute “State”;
 - (b) for “Member States” in each place it occurs substitute “States”.
4. In Article 3 for “Member State” in each place it occurs substitute “State”.
5. Omit Article 4.
6. In Article 5—
- (a) in point (a)—
 - (i) for “where, under the legislation of the competent Member State” substitute “where Gibraltar is the competent State and, under the legislation of Gibraltar”;
 - (ii) for “another Member State” in both places it occurs substitute “a Member State”;
 - (b) in point (b)—
 - (i) for “where, under the legislation of the competent Member State” substitute “where Gibraltar is the competent State and, under the legislation of Gibraltar”;

- (ii) for “that Member State” substitute “the competent authority”;
- (iii) for “any Member State” substitute “a Member State”;
- (iv) for “its own territory” substitute “Gibraltar”.

7. In Article 6—

- (a) for “the competent institution of a Member State whose legislation makes” substitute “Gibraltar is the competent State and the legislation of Gibraltar makes”;
- (b) after “residence” in the first place it occurs, insert “the competent institution in Gibraltar”;
- (c) for “other Member State” substitute “Member State”;
- (d) for “which it applies” substitute “of Gibraltar”.

8. In Article 7—

- (a) for “one or more Member States or under this Regulation” substitute “Gibraltar”;
- (b) omit from “other than” to the end of the Article.

9. Article 8 is amended as follows—

- (a) for “This Regulation” to “shall, however,” substitute “The provisions listed in Annex 2”;
- (b) omit from “For these provisions” to the end of paragraph 1;
- (c) for paragraph 2 substitute—

“2. This Regulation does not apply to any matter within the scope of a convention in force between the United Kingdom and a Member State on or after exit day, which extends to, or applies in, Gibraltar, to the extent that convention makes different provision.”.

10. Omit Article 9.

SCHEDULE 2

Regulation 2(b)

Substitution of Title 2: Determination as to when the legislation of Gibraltar is applicable

For Title 2 substitute—

“Title 2
Determination as to when the legislation of Gibraltar is applicable

Article A11

Purpose of this Title

This Title contains provisions that determine for the purposes of this Regulation:

- (a) which persons to whom this Regulation applies are subject to the legislation of Gibraltar; and
- (b) which persons to whom this Regulation applies are treated as subject to the legislation of a Member State.

Article 11

General rules

1. The persons subject to the legislation of Gibraltar, and the persons treated as being subject to the legislation of a Member State, are to be determined in accordance with this Title.
2. For the purposes of this Title, persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person shall be considered to be pursuing the said activity. This shall not apply to invalidity, old-age or survivors' pensions or to pensions in respect of accidents at work or occupational diseases or to sickness benefits in cash covering treatment for an unlimited period.
3. The question of whether a person was subject to the legislation of Gibraltar at a time before exit day is to be determined as it would have been determined immediately before exit day.
4. Subject to Articles 12 to 16, on or after exit day, the following persons are subject to the legislation of Gibraltar:
 - (a) a person pursuing an activity as an employed or self-employed person in Gibraltar;
 - (b) a civil servant if the administration employing the person is subject to the legislation of Gibraltar;

- (c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of Gibraltar as the person's state of residence;
- (d) a person called up or recalled for service in the Royal Gibraltar Regiment or for civilian service in Gibraltar;
- (e) any other person to whom sub-paragraphs (a) to (d) do not apply if:
 - (i) Gibraltar is the person's state of residence; and
 - (ii) the person is not treated as being subject to the legislation of a Member State in accordance with paragraph 6.

5. The question of whether a person was subject to the legislation of a Member State (other than the legislation of Gibraltar) at a time before exit day is to be determined as it would have been determined immediately before exit day.

6. Subject to Articles 12 to 16, on or after exit day the following persons are treated as being subject to the legislation of a Member State:

- (a) a person pursuing an activity as an employed or self-employed person in that Member State;
- (b) a civil servant if the administration employing the person is subject to the legislation of that Member State;
- (c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of that Member State as the person's state of residence;
- (d) a person called up or recalled for service in the armed forces or for civilian service in that Member State;
- (e) any other person to whom paragraphs (a) to (d) do not apply if that Member State is the person's state of residence.

7. For the purposes of this Title, subject to paragraph 8, an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of a State shall be deemed to be an activity pursued in that State.

8. A person employed on board a vessel registered in Gibraltar and remunerated for such activity by an undertaking or a person whose registered office or place of business is in a Member State ("the employer's Member State") shall be subject to the legislation of Gibraltar if the employed person resides in Gibraltar or a Member State other than the employer's Member State. The undertaking or person paying the remuneration shall be considered as the employer for these purposes.

9. An activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be an activity pursued in Gibraltar where the home base, as defined in Annex III to Regulation (EEC) No 3922/91, is located in Gibraltar.

Article 12

Special rules

1. A person (“P”) who pursues an activity as an employed person in Gibraltar on behalf of an employer which normally carries out its activities there and who is posted by that employer to a Member State to perform work on that employer’s behalf shall continue to be subject to the legislation of Gibraltar, provided that the anticipated duration of such work does not exceed 24 months and P is not sent to replace another posted person.

2. A person (“P”) who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted to Gibraltar to perform work on that employer’s behalf shall be treated as being subject to the legislation of that Member State provided that the anticipated duration of such work does not exceed 24 months and P is not sent to replace another posted person.

3. A person who normally pursues an activity as a self-employed person in Gibraltar who goes to pursue a similar activity in a Member State shall continue to be subject to the legislation of Gibraltar, provided that the anticipated duration of such activity does not exceed 24 months.

4. A person who normally pursues an activity as a self-employed person in a Member State who comes to Gibraltar to pursue a similar activity shall be treated as being subject to the legislation of that Member State provided that the anticipated duration of such activity does not exceed 24 months.

Article 13

Pursuit of activities in two or more States

1. A person who normally pursues an activity as an employed person both in Gibraltar and one or more Member States shall be subject to the legislation of Gibraltar:

- (a) if the person resides in Gibraltar and pursues a substantial part of that activity in Gibraltar;
- (b) in the case of a person who does not pursue a substantial part of that activity in the state where that person resides, if:
 - (i) the registered office or place of business of the undertaking or employer or, where the person is employed by two or more undertakings or employers, all of the registered offices or places of business of the undertakings or employers employing the person are situated in Gibraltar;

- (ii) the person resides in a Member State (“the employed person’s Member State”) and is employed by two or more undertakings or employers whose registered offices or places of business are situated only in Gibraltar and the employed person’s Member State; or
 - (iii) the person resides in Gibraltar and is employed by two or more undertakings or employers whose registered offices or places of business are situated in two or more Member States.
- 2. A person:
 - (a) who normally pursues an activity as an employed person both in Gibraltar and one or more Member States; and
 - (b) who is not subject to the legislation of Gibraltar determined in accordance with paragraph 1, shall be treated as being subject to the legislation of a Member State.
- 3. A person who normally pursues an activity as a self-employed person in Gibraltar and one or more Member States shall be subject to the legislation of Gibraltar:
 - (a) if the person resides in Gibraltar and pursues a substantial part of that activity in Gibraltar;
 - (b) in the case of a person who does not pursue a substantial part of that person’s activity in the State where the person resides, if the centre of interest of that person’s activities is in Gibraltar.
- 4. A person:
 - (a) who normally pursues an activity as a self-employed person in Gibraltar and one or more Member States; and
 - (b) who is not subject to the legislation of Gibraltar determined in accordance with paragraph 3, shall be treated as being subject to the legislation of a Member State.
- 5. A person who normally pursues an activity as an employed person in Gibraltar and as a self-employed person in a Member State shall be subject to the legislation of Gibraltar.
- 6. A person who:
 - (a) normally pursues an activity as an employed person in Gibraltar and as a self-employed person in a Member State; and
 - (b) also pursues an activity as an employed person in a Member State,

shall be subject to the legislation of Gibraltar or treated as being subject to the legislation of that Member State if that person would be so regarded in accordance with paragraphs 1 or 2 (disregarding the person's activity as a self-employed person).

7. A person who normally pursues an activity as a self-employed person in Gibraltar and as an employed person in a Member State shall be treated as being subject to the legislation of that Member State.

8. A person:

- (a) who normally pursues an activity as a self-employed person in Gibraltar and as an employed person in a Member State; and
- (b) who also pursues an activity as an employed person in Gibraltar,

shall be subject to the legislation of Gibraltar or treated as being subject to the legislation of that Member State if that person would be so regarded in accordance with paragraphs 1 or 2 (disregarding the person's activity as a self-employed person).

9. A person:

- (a) who is employed as a civil servant by Gibraltar; and
- (b) who pursues an activity as an employed person or as a self-employed person in one or more Member States, shall be subject to the legislation of Gibraltar;

10. A person:

- (a) who is employed as a civil servant by a Member State; and
- (b) who pursues an activity as an employed person or as a self-employed person in Gibraltar, shall be treated as being subject to the legislation of that Member State.

11. A person who is subject to the legislation of Gibraltar determined in accordance with paragraphs 1 to 9 shall be treated as though that person were pursuing all that person's activities as an employed or self-employed person and receiving all that person's income in Gibraltar.

Article 14

Voluntary insurance or optional continued insurance

1. Articles 11 to 13 shall not apply to voluntary insurance or to optional continued insurance unless, in respect of one of the branches referred to in Article 3(1), only a voluntary scheme of insurance exists in a Member State.

2. If the legislation of Gibraltar makes admission to voluntary insurance or optional continued insurance conditional upon residence in Gibraltar or upon previous activity

as an employed or self-employed person, Article 5(b) shall apply only to persons who have been subject, at some earlier stage, to the legislation of Gibraltar on the basis of an activity as an employed or self-employed person.

Article 15

Contract staff of the European Communities

1. Contract staff of the European Communities may opt to be subject to the legislation of Gibraltar, in respect of benefits other than those relating to family allowances, provided by virtue of their employment with the European Communities if:

- (a) they are employed in Gibraltar;
- (b) they were subject to the legislation of Gibraltar immediately before their last employment preceding the commencement of their employment with the European Communities; or
- (c) they are a registered Gibraltarian under the Gibraltarian Status Act.

2. This right of option, which may be exercised once only, shall take effect from the date of entry into employment with the European Communities.

Article 16

Exceptions to Articles 11 to 15

1. Exceptions to Articles 11 to 15 may be made in the interest of certain persons or categories of person by common agreement:

- (a) that applies as between Gibraltar and one or more Member States;
- (b) between the competent authority in Gibraltar and the competent authority, or authorities, of one or more Member States; or
- (c) between a body designated by the competent authority in Gibraltar and a body, or the bodies, designated by the competent authority, or authorities, of one or more Member States.

2. A person residing in Gibraltar who receives a pension or pensions under the legislation of one or more Member States may, at that person's request, be exempted from the application of the legislation of Gibraltar provided that person is not subject to the legislation of Gibraltar on account of pursuing an activity as an employed or self-employed person."

SCHEDULE 3

Regulation 2(c)

Amendments to Title 3: Special provisions concerning the various categories of benefits

PART 1

Amendments to Chapter 1: Sickness, maternity and equivalent paternity benefits

1. For Article 21 substitute—

“Article 21

Cash benefits

Where Gibraltar is the competent State, an insured person and members of the person’s family residing or staying in a Member State shall be entitled to cash benefits provided by the competent institution in Gibraltar in accordance with the legislation of Gibraltar.”.

2. In Article 30—

(a) in paragraph 1—

- (i) for “The institution of a Member State which” substitute “Where an institution in Gibraltar”;
- (ii) for “it applies” substitute “of Gibraltar”;
- (iii) for “paternity benefits,” substitute “paternity benefits it”;

(b) in paragraph 2 for “a Member State in which” substitute “Gibraltar and Gibraltar is where”.

3. In Article 31 for “Member State” substitute “State”.

PART 2

Amendments to Chapter 2: Benefits in respect of accidents at work and occupational diseases

4. In Article 37 for “Member State” in each place it occurs substitute “State”.

5. In Article 38—

- (a) for “Member States” in each place it occurs (including in the heading) substitute “States”;
- (b) omit “exclusively”;

- (c) after “the legislation of” insert “Gibraltar, where Gibraltar is”;
- (d) for “whose” substitute “under whose legislation those”.

6. In Article 39—

- (a) for “a Member State” in the first place it occurs substitute “Gibraltar”;
- (b) in points (a) and (b)—
 - (i) for “another Member State” substitute “a Member State”;
 - (ii) for “the first Member State” substitute “Gibraltar”;
- (c) in point (b) omit the final sentence;
- (d) in point (c)—
 - (i) for “Member State” substitute “State”;
 - (ii) for “Member States” substitute “States”;
- (e) after point (c) insert—

“In the event of the aggravation of an occupational disease for which a person suffering from such a disease has received or is receiving benefits under the legislation of a Member State, where the person concerned, while in receipt of benefits, has pursued such an activity under the legislation of Gibraltar, the competent institution in Gibraltar shall grant a supplement to the person concerned, the amount of which shall be equal to the difference between the amount of benefits due after the aggravation and the amount which would have been due prior to the aggravation if the disease in question had occurred under the legislation of Gibraltar.”.

7. In Article 40(3)—

- (a) for “a Member State” substitute “Gibraltar”;
- (b) for “another Member State” substitute “a Member State”;
- (c) for “other Member State” substitute “Member State”.

8. For Article 41 (including the heading) substitute—

“Article 41

Reimbursements between institutions

1. Where the benefits provided under this chapter by the institution in Gibraltar on behalf of the institution in a Member State, the institution in Gibraltar may seek reimbursement.

Where benefits are provided under this chapter by the institution in a Member State on behalf of Gibraltar, Gibraltar shall reimburse those costs.

2. The reimbursements referred to in paragraph 1 shall be determined and effected in accordance with the arrangements set out in the Implementing Regulation, either on production of proof of actual expenditure, or on the basis of fixed amounts for States the legal or administrative structures of which are such that the use of reimbursement on the basis of actual expenditure is not appropriate.

3. Two or more States, or their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between the institutions coming under their jurisdiction.”.

PART 3

Amendments to Chapter 3: Death Grants

9. In Article 42—

- (a) in the heading for “Member State” in both places it occurs substitute “State”;
- (b) in paragraph 1 for “Member State” in each place it occurs substitute “State”;
- (c) for paragraph 2 substitute—

“2. Where Gibraltar is the competent State, the competent institution in Gibraltar shall be obliged to provide death grants payable under the legislation of Gibraltar, even if the person entitled resides in a Member State.”.

10. In Article 43—

- (a) for “one Member State” substitute “Gibraltar”;
- (b) for “two” substitute “Gibraltar and one”;
- (c) for “a Member State other than that of the institution” substitute “Gibraltar and an institution in a Member State”;
- (d) for “, the death grants payable” to the end of the paragraph substitute “(as they apply in the European Union), Gibraltar is not responsible for the payment of death grants”.

PART 4
Amendments to Chapter 4: Invalidity benefits

11. In Article 44—

- (a) in paragraph 1 for “Member State” substitute “State”;
- (b) in paragraph 2—
 - (i) for “Member States” substitute “States”;
 - (ii) for “Member State” substitute “State”;
 - (iii) after “occurred,” insert “where that is Gibraltar,”;
- (c) in paragraph 3—
 - (i) after “benefits” insert “from a Member State”;
 - (ii) after “paragraph 2,” insert “except where it is a consequence of Gibraltar leaving the European Union,”;
 - (iii) for “another Member State” substitute “Gibraltar”.

12. In Article 45—

- (a) for “The competent institution of a Member State whose legislation” substitute “If the legislation of Gibraltar”;
- (b) after “residence” insert “the competent institution in Gibraltar”.

13. In Article 46—

- (a) in paragraph 1—
 - (i) for “Member States” substitute “States”;
 - (ii) omit “taking into account paragraph 3”;
- (b) in paragraph 2—
 - (i) for “a type A legislation” substitute “the legislation of Gibraltar”;
 - (ii) for “that legislation” substitute “the legislation of Gibraltar”;
- (c) omit paragraph 3.

14. In Article 47—

- (a) in paragraph 1—
 - (i) for “Member States” substitute “States”;
 - (ii) for “Member State” substitute “State”;
- (b) in paragraph 2 after “payment” insert “, where that institution is in Gibraltar,”;
- (c) in paragraph 3—
 - (i) for “Member State” in both places it occurs substitute “State”;
 - (ii) after “previously competent” insert “, where that State is Gibraltar”;
 - (iii) after “45” insert “, except where the lack of entitlement is a consequence of Gibraltar leaving the European Union”.

15. In Article 48—

- (a) in paragraph 2—
 - (i) for “Member States” substitute “States”;
 - (ii) for “a Member State” substitute “Gibraltar”;
- (b) in paragraph 3—
 - (i) for “one of more of the other Member States” substitute “Gibraltar”;
 - (ii) for “that or those Member States” substitute “Gibraltar”;
- (c) in paragraph 4 for “Member State” substitute “State”.

PART 5

Amendments to Chapter 5: Old-age and survivors’ pensions

16. In Article 50—

- (a) in paragraph 1—
 - (i) for “All the competent institutions shall determine entitlement to benefit” substitute “Where Gibraltar is competent, entitlement to benefit shall be determined”;
 - (ii) for “Member States” in both places it occurs substitute “States”;
- (b) in paragraph 2—

- (i) for “Member States” substitute “States”;
- (ii) for “the institutions” substitute “where Gibraltar is competent and the institution in Gibraltar is”;
- (iii) after “satisfied” insert “, it”.

17. In Article 51—

(a) in paragraph 1—

- (i) for “a Member State” substitute “Gibraltar”;
- (ii) for “of that Member State” substitute “in Gibraltar”;
- (iii) for “other Member States” substitute “Member States”;

(b) in paragraph 2—

- (i) for “another Member State” substitute “Gibraltar”;
- (ii) for “the latter Member State” substitute “Gibraltar”;

(c) in paragraph 3—

- (i) for “a Member State” substitute “Gibraltar”;
- (ii) for “that Member State” substitute “Gibraltar”;
- (iii) for “another Member State” in both places it occurs substitute “a Member State”.

18. In Article 52—

(a) in paragraph 1—

- (i) for “The” in the first place it occurs substitute “Where Gibraltar is competent, the”;
- (ii) for “Member States” in both places it occurs substitute “States”;

(b) in paragraph 2 after “institution” insert “in Gibraltar”;

(c) in paragraph 3 for “each Member State” substitute “Gibraltar”;

(d) in paragraph 4—

- (i) for “one Member State” substitute “Gibraltar”;

- (ii) after “institution” insert “in Gibraltar”;
- (iii) for “another Member State” substitute “a Member State”;
- (e) in paragraph 5—
 - (i) after “3,” insert “where Gibraltar is competent,”;
 - (ii) for “the Member State concerned” substitute “Gibraltar”.

19. In Article 53—

- (a) for “a Member State” substitute “Gibraltar”;
- (b) for “another Member State” in each place it occurs substitute “a Member State”;
- (c) for “a single Member State” substitute “Gibraltar”;
- (d) for “other Member States” in both places it occurs substitute “a Member State”.

20. In Article 54—

- (a) for “Member States” substitute “States”;
- (b) for “a Member State” substitute “Gibraltar”;
- (c) omit paragraph 2.

21. In Article 55—

- (a) for “the Member State concerned” substitute “Gibraltar”;
- (b) for “institutions” in each place it occurs substitute “institution in Gibraltar”;
- (c) after “competent institution” insert “in Gibraltar”;
- (d) for “one or more Member States” substitute “Gibraltar”;
- (e) for “another Member State” substitute “a Member State”.

22. In Article 56—

- (a) for “For” substitute “Where Gibraltar is competent, for”;
- (b) for “Member States” in the first place it occurs substitute “States”;
- (c) for “one of these Member States” substitute “Gibraltar”;

- (d) for “of that Member State” in both places it occurs substitute “in Gibraltar”;
- (e) for “a Member State” in each place it occurs substitute “Gibraltar”;
- (f) for “other Member State” in both places it occurs substitute “Member State”;
- (g) for “Member State concerned” substitute “Gibraltar”;
- (h) for “other Member States” substitute “Member States”.

23. In Article 57—

- (a) for “a Member State” substitute “Gibraltar”;
- (b) for “Member States” in the first two places it occurs substitute “States”;
- (c) for “the last of those Member States” substitute “Gibraltar where it is the last State”;
- (d) for “that Member State” substitute “Gibraltar”.

24. For Article 58 substitute—

“Article 58

Award of a supplement

1. A recipient of benefits to whom this chapter applies, who is resident in Gibraltar and to whom a benefit is payable under the legislation of Gibraltar may not be provided with a benefit which is less than the minimum benefit fixed by that legislation for a period of insurance or residence equal to all the periods taken into account for the benefit payment in accordance with this chapter.

2. The competent institution in Gibraltar shall pay the benefit recipient throughout the period of that person’s residence in Gibraltar a supplement equal to the difference between the total of the benefits due under this chapter and the amount of the minimum benefit.”.

25. In Article 59—

- (a) for “a Member State” substitute “Gibraltar”;
- (b) for “the Member State concerned” substitute “Gibraltar”.

26. In Article 60—

- (a) for “the legislation of a competent Member State” substitute “Gibraltar is competent and its legislation”;

- (b) for “that Member State” in both places it occurs substitute “Gibraltar”;
- (c) for “a Member State” substitute “Gibraltar”;
- (d) for “that State” substitute “Gibraltar”.

PART 6

Amendments to Chapter 6: Unemployment benefits

27. In Article 61—

- (a) in paragraph 1—
 - (i) for “The competent institution of a Member State whose legislation makes” substitute “Where Gibraltar is the competent State and the legislation of Gibraltar makes”;
 - (ii) after “employment or self-employment” in the first place it occurs insert “the competent institution”;
 - (iii) for “any other Member State” substitute “a Member State”;
 - (iv) for “it applies” substitute “of Gibraltar”;
 - (v) for “applicable legislation” in both places it occurs substitute “legislation of Gibraltar”;
 - (vi) for “another Member State” substitute “a Member State”;
- (b) in paragraph 2 after “the legislation” in the first place it occurs insert “of Gibraltar”.

28. Omit Article 62.

29. In Article 64—

- (a) in the heading for “another Member State” substitute “a Member State”;
- (b) in paragraph 1—
 - (i) for “the competent Member State” substitute “Gibraltar, where Gibraltar is competent”;
 - (ii) for “another Member State” substitute “a Member State”;
- (c) in point (a)—

- (i) for “the competent Member State” substitute “Gibraltar, where Gibraltar is competent”;
- (ii) after “institutions” insert “in Gibraltar”;
- (d) in point (b)—
 - (i) after “must” insert “take reasonable steps to”;
 - (ii) for “the Member State which he/she left” substitute “Gibraltar”;
 - (iii) after “institutions” insert “in Gibraltar”;
- (e) in point (c)—
 - (i) for “the Member State which he/she left” substitute “Gibraltar”;
 - (ii) for “that Member State” substitute “Gibraltar”;
 - (iii) after “institutions” insert “in Gibraltar”;
- (f) in point (d)—
 - (i) after “institution” insert “in Gibraltar”;
 - (ii) for “it applies” substitute “of Gibraltar”;
- (g) in paragraph 2—
 - (i) for “the competent Member State” in the first place it occurs substitute “Gibraltar, where Gibraltar is competent,”;
 - (ii) for “that Member State” substitute “Gibraltar”;
 - (iii) for “the competent Member State” in the second place it occurs substitute “Gibraltar”;
 - (iv) after “institutions” insert “in Gibraltar”;
- (h) in paragraph 3—
 - (i) for “the competent Member State” substitute “Gibraltar, where Gibraltar is competent,”;
 - (ii) after “or institutions” insert “in Gibraltar”;
- (i) in paragraph 4 for “the competent Member State” substitute “Gibraltar, where Gibraltar is competent,”.

30. In Article 65—

- (a) in the heading for “a Member State” substitute “a State”;
- (b) in paragraph 1—
 - (i) omit “other than the competent Member State”;
 - (ii) for “the competent Member State” in each place it occurs substitute “Gibraltar”;
 - (iii) for “that Member State” substitute “Gibraltar”;
- (c) in paragraph 2—
 - (i) for “Member State” in each place it occurs substitute “State”;
 - (ii) after “shall” in both places it occurs insert “take reasonable steps to”;
- (d) in paragraph 3—
 - (i) before “register” in the first place it occurs insert “take reasonable steps to”;
 - (ii) for “Member State” in each place it occurs substitute “State”;
- (e) in paragraph 4 for “Member State” in both places it occurs substitute “State”;
- (f) in paragraph 5(a)—
 - (i) at the beginning insert “Where Gibraltar is the state of residence,”;
 - (ii) for “the Member State of residence” substitute “Gibraltar”;
 - (iii) for “of the place of residence” substitute “in Gibraltar”;
- (g) in paragraph 5(b)—
 - (i) after “However,” insert “where Gibraltar is the State of residence,”;
 - (ii) for “the Member State of residence” substitute “Gibraltar”;
- (h) in paragraph 6—
 - (i) after “paragraph 7,” insert “the competent institution in Gibraltar may request reimbursement from”;
 - (ii) for “shall reimburse to the institution of the place of residence” substitute “of”;

- (iii) for “latter institution” substitute “institution in Gibraltar”;
- (i) in paragraph 7 for “Member State” substitute “State”;
- (j) in paragraph 8 for “Member States” substitute “States”.

31. In Article 65a—

- (a) for “Member State” in each place it occurs (including the heading) substitute “State”;
- (b) for paragraph 2 substitute—

“2. Benefits shall be provided to the wholly unemployed person referred to in paragraph 1 by Gibraltar if the person was last subject to the legislation of Gibraltar in accordance with that legislation.”.

PART 7

Omission of Chapter 7: Pre-retirement benefits

32. Omit Chapter 7.

PART 8

Amendments to Chapter 8: Family benefits

33. For Article 67 substitute—

“Article 67

Members of the family residing in another State

Where Gibraltar is the competent State, a person shall be entitled to family benefits in accordance with the legislation of Gibraltar, including in respect of family members who reside in another State, as if they were residing in Gibraltar. A pensioner shall be entitled to family benefits in accordance with the legislation of Gibraltar even where that pensioner is living in another State, where Gibraltar is competent for that pensioner’s pension.”.

34. In Article 68—

- (a) in paragraph 1 from “more than one Member State” to “apply” substitute “Gibraltar and simultaneously under the legislation of one or more Member States (“overlapping entitlements”), the following priority rules shall be applied by the competent institution in Gibraltar in determining a person’s entitlement to benefit”;
- (b) in paragraph 1(a)—

- (i) for “more than one Member State” substitute “both Gibraltar and one or more Member States”;
 - (ii) after “priority” insert “applied by the competent institution in Gibraltar”;
- (c) in paragraph 1(b)—
- (i) for “more than one Member State” substitute “both Gibraltar and one or more Member States”;
 - (ii) after “priority” insert “applied by the competent institution in Gibraltar”;
 - (iii) for “cost of benefits shall be shared” substitute “competent institution in Gibraltar must determine entitlement to a supplementary payment”;
 - (iv) for “additionally, where appropriate” substitute “where this cannot be ascertained or is otherwise not determinative”;

- (d) for paragraph 2 substitute—

“2. In the case of overlapping entitlements, family benefits shall be provided by Gibraltar in the event that its legislation has been determined as having priority in accordance with paragraph 1. In the event that the legislation of Gibraltar is applicable but is not determined as the legislation having priority in accordance with paragraph 1, entitlement to family benefits paid by Gibraltar shall be suspended up to the amount provided for by the legislation of the Member State under which a person has an overlapping entitlement to family benefits and a differential supplement shall be provided by Gibraltar, if necessary, for the sum which exceeds this amount.

However, such a differential supplement does not need to be provided for children residing in a Member State when entitlement to the benefit in question in Gibraltar is based on residence only.”;

- (e) in paragraph 3 for “a Member State whose” substitute “Gibraltar in circumstances where Gibraltar’s”;
- (f) in paragraph 3(a) for “competent institution of the Member State whose legislation is applicable” substitute “relevant institution in the Member State under whose legislation the competent institution in Gibraltar considers a person may be entitled to payment of a family benefit”;
- (g) omit paragraph 3(b).

35. In Article 68a—

- (a) after “competent institution” insert “in Gibraltar”;

- (b) from “at the request” to the end of the text substitute “in the event that such a request is made through an agency of the institution in the Member State in which that family member resides”.

36. In Article 69 for paragraph 1 substitute—

“1. Where Article 67 applies or the competent institution in Gibraltar determines that its legislation has priority by virtue of Article 68 and no right is acquired to the payment of additional or special family benefits for orphans, the competent institution in Gibraltar shall forward any claim for such additional or special family benefits for orphans to any Member State to whose legislation a person was previously subject. The order of priority for such forwarding is to be determined by the competent institution in Gibraltar in accordance with the period of time a Member State’s legislation applied to that person in decreasing order of the length of periods of insurance or residence completed under the legislation of each relevant Member State.”.

PART 9

Chapter 9: Special non-contributory cash benefits

37. In Article 70 for “Member State” in each place it occurs substitute “State”.

SCHEDULE 4

Regulation 2(d)

Amendments to Title 5: Miscellaneous provisions

1. In Article 76—

- (a) omit paragraphs 1 and 2;
- (b) in paragraph 3 for “Member States” substitute “States”;
- (c) in paragraph 4—
 - (i) in the first and second subparagraphs after “institutions” insert “of Gibraltar”;
 - (ii) in the third subparagraph for “Member State” in both places it occurs substitute “State”;
- (d) omit paragraph 6;
- (e) in paragraph 7—
 - (i) for “one Member State” substitute “Gibraltar”;
 - (ii) for “another Member State” substitute “a Member State”.

2. In Article 77—

- (a) for “a Member State” substitute “Gibraltar”;
- (b) for “another Member State” in both places it occurs substitute “a Member State”;
- (c) for “the Member State transmitting them” substitute “Gibraltar”;
- (d) for “Any communication from the authority or institution of the receiving Member State” substitute “Where the authorities or institutions of Gibraltar receive any communication from a Member State, that communication”;
- (e) for “the receiving Member State” substitute “Gibraltar”;
- (f) for “one Member State” substitute “Gibraltar”.

3. In Article 78—

- (a) omit paragraph 1;
- (b) in paragraph 2 for “Member State” substitute “State”;

(c) in paragraph 3 for “another Member State” substitute “Gibraltar”.

4. Omit Article 79.

5. In Article 80—

- (a) for “one Member State” substitute “Gibraltar”;
- (b) for “that Member State” substitute “Gibraltar”;
- (c) for “another Member State” substitute “a Member State”.

6. For Article 81 substitute—

“Article 81

Claims, declarations or appeals

1. In the event that an authority, institution or tribunal in Gibraltar receives a claim, declaration or appeal which should have been submitted to an authority, institution or tribunal in a Member State, reasonable steps shall be taken to forward that claim, declaration or appeal to the correct authority, institution or tribunal in the Member State. Alternatively the claim, declaration or appeal shall be returned to the individual with a request that they forward it to the correct authority, institution or tribunal in the Member State.

2. In the event that a claim, declaration or appeal which should have been submitted to an authority, institution or tribunal in Gibraltar is submitted to an authority, institution or tribunal in a Member State, the date on which such claim, declaration or appeal was submitted to the authority, institution or tribunal in the Member State shall be considered as the date of its submission to the competent authority, institution or tribunal in Gibraltar.”.

7. In Article 82—

- (a) for “Member State” in both places it occurs substitute “State”;
- (b) for “Member States” substitute “States”.

8. In Article 83 for “Member States” substitute “States”.

9. In Article 84—

- (a) for “one Member State” in each place it occurs substitute “a Member State”;
- (b) for “another Member State” in each place it occurs substitute “Gibraltar”;
- (c) for “the latter Member State” in each place it occurs substitute “Gibraltar”;

(d) for “that Member State” in both places it occurs substitute “Gibraltar”;

(e) for “Member States” substitute “States”.

10. In Article 85—

(a) for “Member State” in each place it occurs substitute “State”;

(b) for “Member States” substitute “States”.

11. Omit Article 86.

SCHEDULE 5

Regulation 2(e)

Amendments to Title 6: Transitional and final provisions

1. In Article 87—

- (a) in paragraphs 2 to 8 for “Member State” in each place it occurs substitute “State”;
- (b) in paragraph 10 add the following subparagraph—
“With regard to Liechtenstein, the provisions of the second sentences of Article 65(2) and (3) shall be applicable at the latest as from 1 May 2012.”;
- (c) omit paragraphs 10a and 10b;
- (d) in paragraph 11 for “Member States shall” substitute “The competent institution in Gibraltar shall take reasonable steps to”.

2. In Article 87a—

- (a) for “Member State” in each place it occurs substitute “State”;
- (b) omit paragraph 2.

3. Omit Article 88.

4. After Article 91 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States”.

SCHEDULE 6

Regulation 2(f)

Amendments to the Annexes

1. In Annex 1—

(a) at the end of Section 1 add—

“ICELAND

Advances of maintenance payments under the Act on Social Security No 100/2007.

LIECHTENSTEIN

Advances of maintenance payments under the Law on the grant of advances of maintenance payments of 21 June 1989 as amended.

NORWAY

Advance payment of child maintenance under the Advance payment of child maintenance Act of 17 February 1989 No. 2.

(a) Paragraph 8 of Article 87 was substituted, and paragraph 10b inserted, by Regulation No 988/2009.

(b) Article 87a was inserted by Regulation No 465/2012.

SWITZERLAND

Cantonal legislation concerning the advances of maintenance payments based on Articles 131 paragraph 2 and 293 paragraph 2 of the Federal Civil Act.”;

(b) at the end of Part 2 add—

“ICELAND

Lump sum grants intended to offset the cost of international adoption pursuant to the Act on Adoption Grants No 152/2006.

NORWAY

Lump sum grants payable at childbirth pursuant to the National Insurance Act.
Lump sum grants payable at adoption pursuant to the National Insurance Act.

SWITZERLAND

Birth grants and adoption grants pursuant to the relevant cantonal legislation based on Article 3 paragraph 2 of the Federal Family Allowances Act.”.

2. In Annex 2—

(a) under the heading “General comments” for “Member States” in both places it occurs substitute “States”;

(b) at the end of the Annex add—

“ICELAND – DENMARK

Article 7 of the Nordic Convention on social security of 18 August 2003 (concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country increasing the cost of return travel to the country of residence).

ICELAND – FINLAND

Article 7 of the Nordic Convention on social security of 18 August 2003 (concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country increasing the cost of return travel to the country of residence).

ICELAND – SWEDEN

Article 7 of the Nordic Convention on social security of 18 August 2003 (concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country increasing the cost of return travel to the country of residence).

ICELAND – NORWAY

Article 7 of the Nordic Convention on social security of 18 August 2003 (concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country increasing the cost of return travel to the country of residence).

NORWAY – DENMARK

Article 7 of the Nordic Convention on social security of 18 August 2003 (concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country increasing the cost of return travel to the country of residence).

NORWAY – FINLAND

Article 7 of the Nordic Convention on social security of 18 August 2003 (concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country increasing the cost of return travel to the country of residence).

NORWAY – SWEDEN

Article 7 of the Nordic Convention on social security of 18 August 2003 (concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country increasing the cost of return travel to the country of residence).

GERMANY – SWITZERLAND

- (a) Convention on social security of 25 February 1964, as amended by Complementary Conventions No 1 of 9 September 1975 and No 2 of 2 March 1989:

point 9e, paragraph 1(b), first, second and fourth sentences, of the Final Protocol (access to voluntary sickness insurance in Germany by relocation in Germany).

- (b) Convention on unemployment insurance of 20 October 1982, as amended by the Additional Protocol of 22 December 1992:

Article 8(5), Germany (district of Büsingen) shall contribute a sum equivalent to the cantonal contribution under Swiss law towards the cost of actual places on employment-promotion measures for workers subject to this provision.

SPAIN – SWITZERLAND

Point 17 of the Final Protocol to the Convention on social security of 13 October 1969, as amended by the Complementary Convention of 11 June 1982; persons insured under the Spanish scheme by virtue of this provision are exempted from the requirement to join the Swiss sickness insurance scheme.

ITALY – SWITZERLAND

Article 9(1) of the Convention on social security of 14 December 1962, as amended by Complementary Convention No 1 of 18 December 1963, the Complementary Agreement of 4 July 1969, the Additional Protocol of 25 February 1974 and Complementary Agreement No 2 of 2 April 1980.”.

3.Omit Annex 7.

4.Omit Annex 8.

5.Omit Annex 9.

6.At the end of Annex 10 add—

“LIECHTENSTEIN

- (a) Allowances for blind persons (Law on the granting of allowances for blind persons of 17 December 1970 as amended);
- (b) Maternity allowances (Law on the granting of maternity allowances of 25 November 1981 as amended);

- (c) Supplementary benefits to the old age, survivors' and invalidity insurance (Law on supplementary benefits to the old age, survivors' and invalidity insurance of 10 December 1965 as amended).

NORWAY

- (a) Guaranteed minimum supplementary pension to persons who are born disabled or become disabled at an early age under the National Insurance Act;
- (b) Special benefits in accordance with the Act of 29 April 2005 No. 21 on supplementary allowance to persons with short periods of residence in Norway.

SWITZERLAND

1. Supplementary benefits (Federal Supplementary Benefits Act of 6 October 2006) and similar benefits provided for under cantonal legislation.
2. Pensions in the case of hardship under invalidity insurance (Article 28 subparagraph 1a of the Federal Invalidity Insurance Act of 19 June 1959, as amended on 7 October 1994).
3. Non-contributory mixed benefits in the event of unemployment, as provided for under cantonal legislation.
4. Non-contributory extraordinary invalidity pensions for disabled persons (Article 39 of the Federal Invalidity Insurance Act of 19 June 1959) who have not been subject, before their incapacity for work, to the Swiss legislation on the basis of an activity as an employed or self-employed person.”.

7. In Annex 11 at the end add—

“ICELAND

1. (a) Notwithstanding the provisions of Article 6, persons who have not been gainfully employed in one or more EC Member States or EFTA States are entitled to an Icelandic social pension only if they have been, or have previously been, permanent residents of Iceland for at least three years, subject to the age limits prescribed by Icelandic legislation.
- (b) The above mentioned provisions do not apply to Icelandic social pension entitlement for the members of the family of persons who are or have been gainfully employed in Iceland, or for students or the members of their families.
2. Where employment or self-employment in Iceland has terminated and the contingency occurs during employment or self-employment in another State to which this Regulation applies and where the disability pension of both the social security and the supplementary pension schemes (pension funds) in Iceland no longer includes the period between the contingency and the pensionable age (future periods), periods of insurance under the legislation of another State to which this Regulation applies

shall be taken into consideration for the requirement of the future periods as if they were periods of insurance in Iceland.

NORWAY

1. The transitional provisions of the Norwegian legislation entailing a reduction of the insurance period which is required for a full supplementary pension for persons born before 1937 shall be applicable to persons covered by the Regulation provided that they have been residents of Norway, or engaged in gainful occupation as employed or self-employed in Norway, for such a number of years as is required after their sixteenth birthday and before 1 January 1967. This requirement shall be one year for each year the person's year of birth falls before 1937.

2. A person insured under the National Insurance Act who provides care to insured care-needing old, disabled or sick persons shall, according to prescribed conditions, be credited pension points for such periods. Likewise, and without prejudice to Article 44 of Regulation (EC) No 987/2009, a person who takes care of small children shall be credited pension points when staying in another State to which this Regulation applies, provided that the person concerned is on parental leave under Norwegian labour law.

3.(a) Notwithstanding the provisions of Article 6, persons who have not been gainfully employed in one or more EC Member States or EFTA States are entitled to a Norwegian social pension only if they have been, or have previously been, permanent residents of Norway for at least three years, subject to the age limits prescribed by Norwegian legislation.

(b) The above mentioned provisions do not apply to Norwegian social pension entitlement for the members of the family of persons who are or have been gainfully employed in Norway, or for students or the members of their families.

SWITZERLAND

1. Article 2 of the Federal Old-Age and Survivors' Insurance Act and Article 1 of the Federal Invalidity Insurance Act, which govern voluntary insurance in these insurance branches for Swiss nationals resident in States not subject to this Agreement, shall be applicable to persons resident outside Switzerland who are nationals of the other States to which this Agreement applies, and to refugees and stateless persons resident in the territory of these States, where these persons join the voluntary insurance scheme not later than one year after the date on which they ceased to be covered by old-age, survivors' and invalidity insurance after a continuous period of insurance of at least five years.

2. Where a person ceases to be insured under Swiss old-age, survivors' and invalidity insurance after a continuous period of insurance of at least five years, he shall continue to be entitled to be insured with the agreement of the employer if he works in a State to which this Agreement does not apply for an employer in Switzerland and if he submits an application to this effect within six months of the date on which he ceases to be insured.

3. Compulsory insurance under Swiss sickness insurance and possible exemptions.
- (a) The Swiss legal provisions governing compulsory sickness insurance shall apply to the following persons not resident in Switzerland:
- (i) persons subject to Swiss legal provisions under Title II of the Regulation;
 - (ii) persons for whom Switzerland shall bear the costs of benefits according to Articles 24, 25, 26 of the Regulation;
 - (iii) persons receiving Swiss unemployment insurance benefits;
 - (iv) family members of persons referred to in (i) and (iii) or of an employed or selfemployed person resident in Switzerland who is insured under the Swiss sickness insurance scheme, unless these family members are resident in one of the following States: Denmark, Spain, Hungary, Portugal, Sweden or the United Kingdom;
 - (v) family members of persons referred to in (ii) or of a pensioner resident in Switzerland who is insured under the Swiss sickness insurance scheme, unless these family members are resident in one of the following States: Denmark, Portugal, Sweden or the United Kingdom.

As family members are considered those persons who are defined as family members according to the legislation of the state of residence.

- (b) Persons referred to in (a) may, on request, be exempted from compulsory insurance if and as long as they are resident in one of the following States and can prove that they are eligible for cover in the event of sickness: Germany, France, Italy, Austria, and, with regard to persons referred to in (a) (iv) and (v), Finland and, with regard to persons referred to in (a)(ii), Portugal.

This request:

- (aa) must be submitted within three months of the date on which the obligation to take out insurance in Switzerland comes into effect; where, in justified cases, the request is submitted after this deadline, the exemption shall take effect as from the commencement of the insurance obligation;
- (bb) shall apply to all family members residing in the same State.

4. Persons who are working, but not residing in Switzerland and who have statutory insurance cover in their State of residence in accordance with point 3(b), as well as their family members, shall benefit from the provisions of Article 19 of the Regulation during a stay in Switzerland.

5. For the purposes of applying Articles 18, 19, 20, 27 of the Regulation in Switzerland, the competent insurer shall bear all invoiced costs.

6. Periods of daily allowance insurance completed under the insurance scheme of another State to which this Agreement applies shall be taken into account for reducing or lifting a possible reserve in daily allowance insurance in the event of maternity or sickness where the person becomes insured with a Swiss insurer within three months of ceasing to be covered by insurance in another country.

7. Where a person who was gainfully employed or self-employed in Switzerland and covering his vital needs has had to cease his activity owing to an accident or illness and is no longer subject to Swiss legislation on invalidity insurance, he shall be considered to be covered by that insurance for the purpose of eligibility for rehabilitation measures until the payment of an invalidity pension and throughout the period during which he benefits from these measures, provided that he has not taken up a new activity outside Switzerland.”

Dated 25th October, 2019.

G H LICUDI QC,
Minister with responsibility for social security.

EXPLANATORY MEMORANDUM

These Regulations are made in exercise of the powers conferred by section 11(1) of the European Union (Withdrawal) Act 2019 (the “EU(W)A”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 11(2) and section 11(3)) arising from the withdrawal of Gibraltar from the European Union.

These Regulations make amendments to Regulation (EC) No 883/2004 which is one of the EU Regulations which relate to social security co-ordination. In particular they make amendments to prevent, remedy or mitigate the deficiencies under section 11(2)(a), (b), (c) and (d) and under section 11(3) of the EU(W)A in relation to cash benefits, pensions and the determination of applicable law.

They also amend the EEA Agreement and modify the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, done at Luxembourg on 21st June 1999. The modifications to Regulation (EC) No 833/2004 made by those Agreements are added to the Regulation as it forms part of retained EU law and ensures that those Agreements apply to EU law as retained by the EU(W)A.