

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4631 of 25 October, 2019

LEGAL NOTICE NO. 215 OF 2019

EUROPEAN UNION (WITHDRAWAL) ACT 2019

SOCIAL SECURITY COORDINATION (COUNCIL REGULATION (EEC) No 1408/71 AND COUNCIL REGULATION (EC) No 859/2003) (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 (Council Regulation (EEC) No 1408/71 and Council Regulation (EC) 859/2003) (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

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

Amendment of Regulation (EEC) No 1408/71.

2. The Schedules to these Regulations amend Regulation (EEC) No 1408/71 as follows—

- (a) Schedule 1 amends Title 1 (general provisions);
- (b) Schedule 2 amends Title 2 (determination of the legislation applicable);
- (c) Schedule 3 amends Title 3 (special provisions relating to the various categories of benefits);
- (d) Schedule 4 amends Title 6 (miscellaneous provisions);
- (e) Schedule 5 amends Title 7 (transitional and final provisions);
- (f) Schedule 6 amends the Annexes.

Amendment of Regulation (EC) No 859/2003.

3.(1) Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third

countries who are not already covered by those provisions solely on the ground of their nationality is amended as follows.

(2) In Article 1—

(a) for “Member State” in both places it occurs substitute “State”;

(b) at the end add the following paragraph—

“In this Regulation “State” means Gibraltar or a Member State.”.

(3) In Article 2 for “Member State” in each place it occurs substitute “State”.

(4) After Article 3 omit “This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community”.

Revocation in relation to Regulation (EEC) No 1408/71.

4. Titles 4 and 5 of Regulation (EEC) No 1408/71 are 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 point (a) for “Member State” in each place it occurs substitute “State”;

(c) for point (b) substitute—

“(b) “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,

however, a frontier worker who is posted elsewhere in the territory of the same or another State by the undertaking to which he is normally attached, or who engages in the provision of services elsewhere in the territory of the same or another State, shall retain the status of frontier worker for a period not exceeding four months, even if he is prevented, during that period, from returning daily or at least once a week to the place where he resides;”;

(d) for point (c) substitute—

“(c) “seasonal worker” means any employed person who goes:

(i) from Gibraltar, where the person is resident, to the territory of a Member State; or

(ii) from a Member State, where the person is resident, to the territory of Gibraltar,

to do work there of a seasonal nature for an undertaking or an employer of that State for a period which may on no account exceed eight months, and who stays in the territory of the said State for the duration of this work; work of a seasonal nature shall be taken to mean work which, being dependent on the succession of the seasons, automatically recurs each year;”;

(e) in point (ca) for “Member State” substitute “State”;

- (f) in point (f) for “Member State” in each place it occurs substitute “State”;
- (g) in point (j)—
 - (i) for “Member State” in both places it occurs substitute “State”;
 - (ii) omit the words from “The term excludes” to “No 3 applied”;
 - (iii) omit “also”;
- (h) in points (ja) and (k) for “Member States” in each place it occurs substitute “States”;
- (i) in point (l) for “Member State” substitute “State”;
- (j) omit point (m);
- (k) in point (n) for “Member State” substitute “State”;
- (l) in point (o)—
 - (i) for “Member State” in both places it occurs substitute “State”;
 - (ii) for “member State” substitute “State”;
- (m) in points (p) and (q) for “Member State” 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 of 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 for “Member States” in each place it occurs substitute “States”.

4. Omit Article 3.

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

6. Omit Articles 5 and 6.

7. In Article 7—

- (a) in paragraph 1(a) for “Member States” substitute “States”;
- (b) in paragraph 2—
 - (i) omit “provisions of Article 6 notwithstanding, the”;
 - (ii) for “Member States before the date of application of this Regulation” substitute “United Kingdom and a Member State before the date of application of this Regulation, which extend to, or apply in, Gibraltar,”;

(c) after paragraph 2 add—

“3. 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.”.

8. Omit Article 8.

9. In Article 9—

- (a) for “The” substitute “Any”;
- (b) for “any Member State” substitute “Gibraltar”;
- (c) for “the territory of that State” substitute “Gibraltar”;

- (d) for “another Member State” in both places it occurs substitute “a Member State”;
- (e) for “the first State” in both places it occurs substitute “Gibraltar”;
- (f) for “a Member State” substitute “Gibraltar”.

10. In Article 9a—

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

11. In Article 10—

- (a) for “one or more Member States” substitute “Gibraltar”;
- (b) omit “other than that in which the institution responsible for payment is situated”;
- (c) omit paragraph 2.

12. In Article 10a—

- (a) in paragraph 1—
 - (i) for “The persons” substitute “Where they reside in Gibraltar, the persons”;
 - (ii) for “the Member State in which they reside” substitute “Gibraltar”;
 - (iii) for “that State” substitute “Gibraltar”;
 - (iv) for “the place of residence” substitute “Gibraltar”;
- (b) in paragraph 2—
 - (i) for “The institution of a Member State under whose legislation” substitute “Where, under the legislation of Gibraltar,”;
 - (ii) after “or residence” in the first place it occurs insert “, the competent institution in Gibraltar”;
 - (iii) for “other Member State” substitute “Member State”;
 - (iv) for “the first Member State” substitute “Gibraltar”;

- (c) in paragraph 3—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “other Member State” substitute “Member State”;
 - (iii) for “the first Member State” substitute “Gibraltar”;
- (d) in paragraph 4—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that Member State” substitute “Gibraltar”;
 - (iii) for “another Member State” substitute “a Member State”.

13. In Article 11 for “a Member State” substitute “Gibraltar”.

14. In Article 12—

- (a) omit the second sentence of paragraph 1;
- (b) for “legislations of a Member State” substitute “legislation of Gibraltar”;
- (c) for “another Member State” in each place it occurs substitute “a Member State”;
- (d) for “a Member State” substitute “Gibraltar”;
- (e) omit paragraph 4.

SCHEDULE 2

Regulation 2(b)

Amendments to Title 2: Determination of the legislation applicable

1. Before Article 13 insert—

“Article A13
Purpose of this Title

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

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

2. In Article 13—

(a) for paragraph 1 substitute—

“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.

1A. 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.”;

(b) in paragraph 2 after “to 17,” insert “on or after exit day, the following persons are subject to the legislation of Gibraltar”;

(c) in paragraph 2(a)—

- (i) for “one Member State shall be subject to the legislation of that State” substitute “Gibraltar”;
- (ii) for “another Member State” in both places it occurs substitute “a Member State”;

(d) in paragraph 2(b)—

- (i) for “one Member State shall be subjected to the legislation of that State” substitute “Gibraltar”;
- (ii) for “another Member State” substitute “a Member State”;

- (e) in paragraph 2(c) for “flying the flag of a Member State shall be subject to the legislation of the State” substitute “registered in Gibraltar”;
- (f) in paragraph 2(d) for “shall be subject to the legislation of the Member State to which the administration employing them is subject” substitute “if the administration employing those persons is subject to the legislation of Gibraltar”;
- (g) for paragraph 2(e) and (f) substitute—

“(e) a person called up or recalled for service in the Royal Gibraltar Regiment, or for civilian service, in Gibraltar (if entitlement under the legislation of Gibraltar is subject to the completion of periods of insurance before entry into or after release from such military or civilian service, periods of insurance completed under the legislation of any Member State shall be taken into account, to the extent necessary, as if they were periods of insurance completed under the legislation of Gibraltar. The employed or self-employed person called up or recalled for service in the Royal Gibraltar Regiment or for civilian service shall retain the status of employed or self-employed person);

- (f) a person to whom sub-paragraphs (a) to (e) do not apply if:
 - (i) the person resides in Gibraltar; and
 - (ii) the person is not treated as being subject to the legislation of a Member State in accordance with paragraph 4.”;
- (h) after paragraph 2 insert—

“3. 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.

4. Subject to Articles 14 to 17, on or after exit day the following persons are treated as being subject to the legislation of a Member State—

- (a) a person employed in the territory of that Member State even if he resides in the territory of another State or if the registered office or place of business of the undertaking or individual employing him is situated in the territory of another State;
- (b) a person who is self-employed in the territory of that Member State even if he resides in the territory of another State;
- (c) a person employed on board a vessel flying the flag of that Member State;
- (d) civil servants and persons treated as such if the administration employing those persons is subject to the legislation of that Member State;

- (e) a person called up or recalled for service in the armed forces, or for civilian service, in that Member State;
- (f) a person to whom the legislation of a State ceases to be applicable, without the legislation of another State becoming applicable to him in accordance with one of the rules laid down in this Article or in accordance with one of the exceptions or special provisions laid down in Articles 14 to 17 if he resides in the territory of that Member State.”.

3. For Articles 14 to 14e substitute—

“Article 14

Special rules applicable to persons, other than mariners, engaged in paid employment

Articles 13(2)(a) and 13(4)(a) shall apply subject to the following exceptions and circumstances:

1. (a) A person employed in the territory of Gibraltar by a undertaking to which he is normally attached who is posted by that undertaking to the territory of a Member State to perform work there for that undertaking shall continue to be subject to the legislation of Gibraltar, provided that the anticipated duration of that work does not exceed 12 months and that he is not sent to replace another person who has completed his term of posting.

(b) If the duration of the work to be done extends beyond the duration originally anticipated, owing to unforeseeable circumstances, and exceeds 12 months, the legislation of Gibraltar shall continue to apply until the completion of such work.

1A. (a) A person employed in the territory of a Member State by a undertaking to which he is normally attached who is posted by that undertaking to the territory of Gibraltar to perform work there for that undertaking shall continue to be treated as being subject to the legislation of that Member State, provided that the anticipated duration of that work does not exceed 12 months and that he is not sent to replace another person who has completed his term of posting.

(b) If the duration of the work to be done extends beyond the duration originally anticipated, owing to unforeseeable circumstances, and exceeds 12 months, the person shall be treated as being subject to the legislation of the Member State until the completion of such work.

2. Paragraphs 2A to 2E apply in the case of a person normally employed in the territory of two or more States.

2A. A person who is a member of the travelling or flying personnel of an undertaking which, for hire or reward or on its own account, operates international transport services for passengers or goods by rail, road, air or inland waterway and

has its registered office or place of business in the territory of a State shall (subject to paragraphs 2B and 2C) be:

- (a) subject to the legislation of Gibraltar if the undertaking has its registered office or place of business in the territory of Gibraltar; or
- (b) treated as being subject to the legislation of a Member State if the undertaking has its registered office or place of business in the territory of a Member State.

2B. Where the undertaking in paragraph 2A has a branch or permanent representation in the territory of a State other than that in which it has its registered office or place of business, a person employed by such branch or permanent representation shall (subject to paragraph 2C) be:

- (a) subject to the legislation of Gibraltar if such branch or permanent representation is situated in the territory of Gibraltar; or
- (b) treated as being subject to the legislation of a Member State if such branch or permanent representation is situated in the territory of a Member State.

2C. Where a person is employed principally in the territory of the State in which he resides, he shall be:

- (a) subject to the legislation of Gibraltar if he resides in Gibraltar (even if the undertaking which employs him has no registered office or place of business or branch or permanent representation in the territory of Gibraltar); or
- (b) treated as being subject to the legislation of a Member State if he resides in a Member State (even if the undertaking which employs him has no registered office or place of business or branch or permanent representation in the territory of that Member State).

2D. A person other than a person referred to in paragraphs 2A to 2C shall be:

- (a) subject to the legislation of Gibraltar if:
 - (i) he resides in the territory of Gibraltar, and
 - (ii) he pursues his activity partly in the territory of Gibraltar, or he is attached to several undertakings or several employers who have their registered offices or places of business in the territory of different States; or
- (b) treated as being subject to the legislation of a Member State if:
 - (i) he resides in the territory of that Member State, and

(ii) he pursues his activity partly in the territory of that Member State, or he is attached to several undertakings or several employers who have their registered offices or places of business in the territory of different States.

2E. Where the person in paragraph 2D does not reside in the territory of the State in which he is pursuing his activity, he shall be:

- (a) subject to the legislation of Gibraltar if the registered office or place of business of the undertaking or individual employing him is situated in the territory of Gibraltar, or
- (b) treated as being subject to the legislation of a Member State if the registered office or place of business of the undertaking or individual employing him is situated in the territory of a Member State.

3. (a) A person who is employed in the territory of one Member State by an undertaking which has its registered office or place of business in the territory of Gibraltar and which straddles the common frontier of those States shall be subject to the legislation of Gibraltar.

(b) A person who is employed in the territory of Gibraltar by an undertaking which has its registered office or place of business in the territory of a Member State and which straddles the common frontier of those States shall be treated as subject to the legislation of a Member State.

Article 14a

Special rules applicable to persons, other than mariners, who are self employed

Articles 13(2)(b) and 13(4)(b) shall apply subject to the following exceptions and circumstances:

1. (a) A person normally self-employed in the territory of Gibraltar and who performs work in the territory of a Member State shall continue to be subject to the legislation of Gibraltar, provided that the anticipated duration of the work does not exceed 12 months.

(b) If the duration of the work to be done extends beyond the duration originally anticipated, owing to unforeseeable circumstances, and exceeds 12 months, the legislation of Gibraltar shall continue to apply until the completion of such work.

1A. (a) A person normally self-employed in the territory of a Member State and who performs work in the territory of Gibraltar shall be treated as being subject to the legislation of that Member State provided that the anticipated duration of such activity does not exceed 12 months.

(b) If the duration of the work to be done extends beyond the duration originally anticipated, owing to unforeseeable circumstances, and exceeds 12 months, the person shall be treated as being subject to the legislation of the Member State until the completion of such work.

2. A person normally self-employed in the territory of Gibraltar and one or more Member States shall be subject to the legislation of Gibraltar if he resides in Gibraltar and if he pursues any part of his activity in Gibraltar. If he does not pursue any activity in the territory of Gibraltar, he shall be treated as being subject to the legislation of the Member State in whose territory he pursues his main activity. The criteria used to determine the principal activity are laid down in the Regulation referred to in Article 98.

3. (a) A person who is self-employed in the territory of one Member State by an undertaking which has its registered office or place of business in the territory of Gibraltar and which straddles the common frontier of those States shall be subject to the legislation of Gibraltar.

(b) A person who is self-employed in the territory of Gibraltar by an undertaking which has its registered office or place of business in the territory of a Member State and which straddles the common frontier of those States shall be treated as subject to the legislation of a Member State.

Article 14b

Special rules application to mariners

Articles 13(2)(c) and 13(4)(c) shall apply subject to the following exceptions and circumstances:

1. A person employed by an undertaking to which he is normally attached, either in the territory of a Member State or on board a vessel flying the flag of a Member State, who is posted by that undertaking on board a vessel registered in Gibraltar to perform work there for that undertaking shall, subject to the conditions provided in Article 14(1), continue to be treated as being subject to the legislation of the Member State.

1A. A person employed by an undertaking to which he is normally attached, either in Gibraltar or on board a vessel registered in Gibraltar, who is posted by that undertaking on board a vessel flying the flag of a Member State to perform work there for that undertaking shall, subject to the conditions provided in Article 14(1), continue to be subject to the legislation of Gibraltar.

2. A person normally self-employed, either in the territory of a Member State or on board a vessel flying the flag of a Member State and who performs work on his own account on board a vessel registered in Gibraltar shall, subject to the conditions provided in Article 14a (1), continue to be treated as being subject to the legislation of the Member State.

2A. A person normally self-employed, either in Gibraltar or on board a vessel registered in Gibraltar and who performs work on his own account on board a vessel flying the flag of a Member State shall, subject to the conditions provided in Article 14a(1), continue to be subject to the legislation of Gibraltar.

3. A person who, while not being normally employed at sea, performs work in the territorial waters or in a port of a Member State on a vessel registered in Gibraltar within those territorial waters or in that port, but is not a member of the crew of the vessel, shall be subject to the legislation of the Member State.

3A. A person who, while not being normally employed at sea, performs work in the territorial waters or in a port of Gibraltar on a vessel flying the flag of a Member State within those territorial waters or in that port, but is not a member of the crew of the vessel, shall be subject to the legislation of Gibraltar.

4. A person employed on board a vessel flying the flag of a Member State and remunerated for such employment by an undertaking or a person whose registered office or place of business is in the territory of another Member State shall be treated as being subject to the legislation of the latter Member State if he is resident in the territory of that State; the undertaking or person paying the remuneration shall be considered as the employer for the purpose of the said legislation.

4A. A person employed on board a vessel flying the flag of a Member State and remunerated for such employment by an undertaking or a person whose registered office or place of business is in the territory of Gibraltar shall be subject to the legislation of Gibraltar if he is resident in the territory of Gibraltar; the undertaking or person paying the remuneration shall be considered as the employer for the purpose of the said legislation.

5. A person employed on board a vessel registered in Gibraltar and remunerated for such employment by an undertaking or a person whose registered office or place of business is in the territory of a Member State (“the employer’s Member State”) shall be subject to the legislation of Gibraltar if he is resident 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 the purpose of the said legislation.

5A. A person employed on board a vessel flying the flag of a Member State and remunerated for such employment by an undertaking or a person whose registered office or place of business is in the territory of Gibraltar (“the employer’s Member State”) shall be treated as being subject to the legislation of a Member State if he is resident in a Member State other than the employer’s Member State. The undertaking or person paying the remuneration shall be considered as the employer for the purpose of the said legislation.

Article 14c

Special rules applicable to persons who are simultaneously employed in the territory of one State and self-employed in the territory of another State

1. A person who is simultaneously employed in the territory of one State and self-employed in the territory of another State shall:

- (a) be subject to the legislation of Gibraltar if he is engaged in paid employment there; or
- (b) be treated as being subject to the legislation of a Member State if he is engaged in paid employment in that Member State.

2. Article 14(2), (2A) and (3) shall determine whether a person who is simultaneously employed in the territory of two States and self-employed in the territory of another State is subject to the legislation of Gibraltar or treated as being subject to the legislation of a Member State.

Article 14d

Miscellaneous provisions

The person referred to in Article 14(1), (1A), (2), (2A) and (3), Article 14a(1), (1A), (2), (2A), (3), Article 14b(1) and (2) and Article 14c shall be treated, for the purposes of application of the legislation laid down in accordance with these provisions, as if he pursued all his professional activity or activities in the State concerned.”.

4. Omit Articles 14e and 14f.

5. For Article 15 to 17a substitute—

“Article 15

Rules concerning voluntary insurance or optional continued insurance

Articles 13 to 14d shall not apply to voluntary insurance or to optional continued insurance.

Article 16

Special rules regarding persons employed by diplomatic missions and consular posts, and auxiliary staff of the European Communities

1. The provisions of Articles 13(2)(a) and 13(4)(a) shall apply to persons employed by diplomatic missions and consular posts and to the private domestic staff of agents of such missions or posts.

2. Auxiliary 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 they are:

- (a) employed in Gibraltar;
 - (b) subject to the legislation of Gibraltar immediately before their last employment preceding the commencement of their employment with the European Communities; or
 - (c) a registered Gibraltarian under the Gibraltarian Status Act.
3. 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 17

Exceptions to Articles 13 to 16

Exceptions to Articles 13 to 16 may be made in the interest of certain persons or categories of persons 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.

Article 17a

Special rules concerning recipients of pensions due under the legislation of one or more Member States

The recipient of a pension due under the legislation of a Member State or of pensions due under the legislation of several Member States who resides in Gibraltar may at his request be exempted from the legislation of Gibraltar provided that he is not subject to that legislation because of the pursuit of an occupation.”.

SCHEDULE 3

Regulation 2(c)

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

PART 1

Amendments to Chapter 1: Sickness and maternity

1. In Article 18—

(a) in paragraph 1—

- (i) for “The competent institution of a Member State whose legislation” substitute “Where Gibraltar is the competent State and the legislation of Gibraltar”;
- (ii) after “residence” in the first place it occurs insert “, the competent institution in Gibraltar”;
- (iii) for “other Member State” substitute “Member State”;
- (iv) for “which it administers” substitute “of Gibraltar”;

(b) in paragraph 2 for “the competent State” substitute “Gibraltar”.

2. In Article 19—

(a) in the heading for “other than” substitute “where Gibraltar is”;

(b) in paragraph 1—

- (i) for “An” substitute “Where Gibraltar is the competent State, an”;
- (ii) omit “other than the competent State,”;
- (iii) for “the competent State” in the second place it occurs substitute “Gibraltar”;
- (iv) for “State” in the third place it occurs substitute “Member State”;

(c) in paragraph 1(b)—

- (i) after “competent institution” in the first place it occurs insert “of Gibraltar”;
- (ii) for “which it administers” substitute “of Gibraltar”;

- (iii) for “the competent State” substituted “Gibraltar”;
 - (d) in paragraph 2—
 - (i) for “The” substitute “Where Gibraltar is the competent State, the”;
 - (ii) omit “other than the competent State”;
 - (iii) for “the State” substitute “the Member State”.
3. In Article 21—
- (a) in the heading for “the competent State” substitute “Gibraltar”;
 - (b) in paragraph 1—
 - (i) for “The” substitute “Where Gibraltar is the competent State, the”;
 - (ii) for “the territory of the competent State” substitute “Gibraltar”;
 - (iii) for “that State” substitute “Gibraltar”;
 - (c) in paragraph 4—
 - (i) for “An” substitute “Where Gibraltar is the competent State, an”;
 - (ii) for “the territory of the competent State” substitute “Gibraltar”;
 - (iii) for “that State” substitute “Gibraltar”.
4. In Article 22—
- (a) in the heading—
 - (i) for “the competent State” substitute “Gibraltar”;
 - (ii) for “another Member State” in both places it occurs substitute “a Member State”;
 - (b) in paragraph 1—
 - (i) for “An” substitute “Where Gibraltar is the competent State, an”;
 - (ii) for “the competent State” substitute “Gibraltar”;
 - (c) in paragraph 1(c)(ii)—
 - (i) after “competent institution” in the first place it occurs insert “of Gibraltar”;

- (ii) for “which it administers” substitute “of Gibraltar”;
- (iii) for “the competent State” substitute “Gibraltar”;
- (d) omit paragraph 1a;
- (e) in paragraph 3 omit “, 1a”.

5. In Article 23—

- (a) in paragraph 1—
 - (i) for “The competent institution of a Member State whose legislation” substitute “If the legislation of Gibraltar”;
 - (ii) after “average contributions,” insert “the competent institution in Gibraltar”;
- (b) in paragraph 2—
 - (i) for “The competent institution in a Member State whose legislation” substitute “If the legislation of Gibraltar”;
 - (ii) after “standard earnings,” insert “the competent institution in Gibraltar”;
- (c) in paragraph 2a—
 - (i) after “competent institution” insert “in Gibraltar”;
 - (ii) for “other Member States” substitute “Member States”;
- (d) in paragraph 3—
 - (i) for “The competent institution of a Member State under whose legislation” substitute “If the legislation of Gibraltar”;
 - (ii) after “the family,” insert “the competent institution”;
 - (iii) for “another Member State” substitute “a Member State”;
 - (iv) for “the competent State” substitute “Gibraltar”.

6. In Article 25—

- (a) in paragraph 1—
 - (i) for “An” substitute “Where Gibraltar is the competent State, an”;

- (ii) for “the competent State” substitute “Gibraltar”;
- (b) in paragraph 1(b)—
 - (i) after “by the competent institution” insert “in Gibraltar”;
 - (ii) for “which it administers” substitute “of Gibraltar”;
 - (iii) for “the competent State” substitute “Gibraltar”;
- (c) omit paragraph 1a;
- (d) in paragraph 2—
 - (i) after “Article 71(1)(b)(ii) apply,” insert “and who resides in Gibraltar,”;
 - (ii) for “the Member State in whose territory he resides” substitute “Gibraltar”;
 - (iii) for “the country of residence” substitute “Gibraltar”;
- (e) in paragraph 3—
 - (i) after “Where” insert “Gibraltar is the competent State responsible for the cost of unemployment benefits for entitlement to sickness and maternity benefits, and where”;
 - (ii) for “the Member State which is responsible for the cost of unemployment benefits for entitlement to sickness and maternity benefits” substitute “Gibraltar”;
 - (iii) for “Member State” in the second place it occurs substitute “State”;
 - (iv) for “the Member State which is responsible for the cost of unemployment benefits” substitute “Gibraltar”;
 - (v) for “which it administers” substitute “of Gibraltar”;
- (f) in paragraph 4—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) after “competent institution” insert “in Gibraltar”;
 - (iii) for “administered by that institution” substitute “of Gibraltar”.

7. In Article 25a—

- (a) for “The institution which” substitute “Where the competent institution in Gibraltar”;
- (b) for “and which belongs to a Member State whose legislation” substitute “and where the legislation of Gibraltar”;
- (c) after “maternity benefits” insert “, the competent institution”;
- (d) for “its” substitute “that”.

8. In Article 27—

- (a) in the heading—
 - (i) for “several” substitute “Gibraltar and one or more Member”;
 - (ii) after “in” insert “Gibraltar, as”;
- (b) for “A pensioner who” substitute “Where a pensioner resides in Gibraltar, and”;
- (c) for “two” substitute “Gibraltar and one”;
- (d) omit “of which one is that of the Member State in whose territory he resides,” ;
- (e) for “the latter Member State” in both places it occurs substitute “Gibraltar”;
- (f) for “the place of residence” substitute “Gibraltar”.

9. In Article 28—

- (a) in the heading for “one or more” substitute “Gibraltar and one or more Member”;
- (b) in paragraph 1—
 - (i) for “A pensioner” substitute “Where Gibraltar is the competent State, a pensioner”;
 - (ii) for “one Member State” substitute “Gibraltar”;
 - (iii) for “two” substitute “Gibraltar and one”;
 - (iv) after “shall nevertheless receive such benefits” insert “from the competent institution in Gibraltar”;
 - (v) for “the Member State or at least one of the Member States” to “of such State” substitute “Gibraltar if he were resident in Gibraltar”;
- (c) in paragraph 1(b) for “which it administers” substitute “of Gibraltar”;

- (d) in paragraph 2—
 - (i) for “Member State” in both places it occurs substitute “State”;
 - (ii) for “two” substitute “Gibraltar and one”.

10. In Article 29—

- (a) in paragraph 1—
 - (i) for “Members” substitute “Where Gibraltar is the competent State, members”;
 - (ii) for “Member State” in the first two places it occurs substitute “State”;
 - (iii) for “Member States” substitute “States”;
 - (iv) for “one Member State” substitute “Gibraltar”;
- (b) in paragraph 1(b)—
 - (i) for “which it administers” substitute “of Gibraltar”;
 - (ii) for “the competent State” substitute “Gibraltar”;
- (c) in paragraph 2 for “Members” substitute “Where Gibraltar is the competent State, members”;
- (d) in paragraph 2(b)—
 - (i) for “which it administers” substitute “of Gibraltar”;
 - (ii) for “the competent State” substitute “Gibraltar”.

11. In Article 31—

- (a) in paragraph 1—
 - (i) for “A pensioner” substitute “Where Gibraltar is the competent State, a pensioner”;
 - (ii) for “one Member State” substitute “Gibraltar”;
 - (iii) for “two” substitute “Gibraltar and one”;
 - (iv) for “one of those States” substitute “Gibraltar”;
 - (v) for “Member State” substitute “State”;

(b) in paragraph 1(b)—

- (i) for “which it administers” substitute “of Gibraltar”;
- (ii) for “legislation of the competent State” substitute “legislation of Gibraltar”;

(c) omit paragraph 2.

12. In Article 33(1) for “Member State” in both places it occurs substitute “State”;

13. In Article 34 for “Member State” in each place it occurs substitute “State”.

14. In Article 35—

(a) in paragraph 1—

- (i) for “legislation of the country of stay or residence” substitute “Gibraltar is the country of stay or residence, and the legislation of Gibraltar”;
- (ii) for “the place of stay or residence” substitute “Gibraltar”;

(b) in paragraph 3—

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

(c) in paragraph 4—

- (i) for “a Member State” substitute “Gibraltar”;
- (ii) for “which administers that legislation” substitute “of Gibraltar”;
- (iii) for “another Member State” substitute “a Member State”.

PART 2

Amendments to Chapter 2: Invalidity

15. In Article 37 for “Member States” in both places it occurs substitute “States”.

16. In Article 38—

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

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

17. In Article 39—

- (a) in paragraph 1—
 - (i) for “The institution of a Member State whose legislation” substitute “Where the legislation of Gibraltar”;
 - (ii) after “occurred” insert “, the competent institution in Gibraltar”;

(b) in paragraph 2 for “which it administers” substitute “of Gibraltar”;

(c) for paragraph 3 substitute—

“3. Where the legislation of a Member State was applicable at the time when incapacity for work followed by invalidity occurred, and a person is not entitled to benefits in that Member State but is entitled under the legislation of Gibraltar, that person shall receive benefits under the legislation of Gibraltar, taking into account, where appropriate, Article 38.”;

(d) in paragraph 4—

- (i) after “competent institution” insert “in Gibraltar”;
- (ii) for “another Member State” substitute “a Member State”;
- (iii) for “the territory of the competent State” substitute “Gibraltar”;

(e) in paragraph 6—

- (i) after “Article 71(1)(b)(ii) applies” insert “who resides in Gibraltar”;
- (ii) for “the Member State in whose territory he resides” substitute “Gibraltar”;
- (iii) for “which it administers” in both places it occurs substitute “of Gibraltar”;

(iv) for “the country of residence” substitute “Gibraltar”;

(v) for “that institution applies legislation providing” substitute “the legislation of Gibraltar provides”;

(vi) for “it shall be” substitute “that institution shall be”;

(vii) for “its legislation” in both places it occurs substitute “the legislation of Gibraltar”;

(viii) for “which that institution administers” substitute “of Gibraltar”.

18. In Article 40—

(a) in paragraph 1—

(i) for “Member States” substitute “States”;

(ii) omit “, taking into account the provisions of paragraph 4”;

(b) in paragraph 2—

(i) for “a legislation” substitute “the legislation of Gibraltar”;

(ii) omit from “, account being taken” to the end of the paragraph;

(c) in paragraph 3—

(i) for “a Member State” substitute “Gibraltar”;

(ii) for “another Member State” substitute “a Member State”;

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

(iv) for “first Member State” in both places it occurs substitute “Gibraltar”;

(d) omit paragraph 4.

19. In Article 41—

(a) in paragraph 1—

(i) for “a single Member State” substitute “Gibraltar”;

(ii) for “another Member State” in both places it occurs substitute “a Member State”;

(iii) for “the first State” in both places it occurs substitute “Gibraltar”;

(iv) for “which it administers” substitute “of Gibraltar”;

(v) omit “of the other”;

- (vi) after “amounts” insert “, if that institution is the competent institution in Gibraltar”;
 - (vii) omit point (d);
 - (viii) for “the State” substitute “Gibraltar”;
- (b) in paragraph 2 for “Member States” substitute “States”.

20. In Article 42—

- (a) for “institution or institutions which were” substitute “competent institution in Gibraltar where it was”;
- (b) after “If” insert “Gibraltar is the competent State and”.

21. In Article 43—

- (a) in paragraph 1—
 - (i) for “Invalidity benefits” substitute “Where invalidity benefits have been granted under the legislation of Gibraltar, they”;
 - (ii) omit “or legislations”;
- (b) in paragraph 2—
 - (i) for “one or more Member States” substitute “Gibraltar”;
 - (ii) after “any institution” insert “in Gibraltar”;
 - (iii) omit “under the legislation of a Member State”;
 - (iv) for “which it administers” substitute “of Gibraltar”;
- (c) in paragraph 3—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “one or more national legislations” substitute “the legislation of Gibraltar”;
 - (iii) for “this or these Member States” substitute “Gibraltar”;
 - (iv) for “national legislations concerned” substitute “legislation of Gibraltar”;
 - (v) omit “or legislations”;
- (d) in paragraph 4 for “another Member State” substitute “Member State”.

22. In Article 43a—

- (a) in paragraph 2—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that Member State” in each place it occurs substitute “Gibraltar”;
- (b) in paragraph 3—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that State” substitute “Gibraltar”.

PART 3

Amendments to Chapter 3: Old age and death (pensions)

23. In Article 44—

- (a) in the heading and paragraph 1 for “Member States” substitute “States”;
- (b) in paragraph 2—
 - (i) after “claim” insert “by Gibraltar”;
 - (ii) omit the last sentence.

24. In Article 45—

- (a) in paragraph 1—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that Member State” substitute “Gibraltar”;
 - (iii) for “other Member State” substitute “Member State”;
 - (iv) for “its own legislation” substitute “the legislation of Gibraltar”;
- (b) in paragraphs 2 and 3—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “other Member States” substitute “Member States”;
- (c) in paragraph 4—

- (i) for “another Member State” substitute “Gibraltar”;
- (ii) for “the latter State” substitute “Gibraltar”;
- (d) in paragraph 5—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “another Member State” substitute “a Member State”;
- (e) for paragraph 6—

“6. Where a worker to whom the first sentence of Article 71(1)(a)(ii) or (b)(ii) applies resides in Gibraltar, a period of full employment shall be taken into account by the competent institution in Gibraltar in accordance with the legislation of Gibraltar, as if that legislation applied to him during his last employment.

Where the legislation of Gibraltar provides for deduction of contributions payable by unemployed persons to cover old age pensions and death, the competent institution in Gibraltar shall be authorised to make such deductions in accordance with the provisions of the legislation of Gibraltar.

If the legislation of Gibraltar provides that the period of full unemployment in Gibraltar can be taken into account only if contribution periods have been completed in Gibraltar, this condition shall be deemed to be fulfilled if the contribution periods have been completed in a Member State.”.

25. In Article 46—

- (a) in paragraphs 1 and 2—
 - (i) after “Where” insert “Gibraltar is the competent State and where”;
 - (ii) for “a Member State” substitute “Gibraltar”;
 - (iii) after “competent institution” in each place it occurs insert “in Gibraltar”;
 - (iv) for “which it administers” in each place it occurs substitute “of Gibraltar”;
 - (v) for “each Member State” substitute “each State”;
 - (vi) for “the State in question” substitute “Gibraltar”;
 - (vii) for “Member States” in the second place it occurs substitute “States”;
- (b) in paragraphs 3 for “each Member State” substitute “Gibraltar”;
- (c) in paragraph 4—

- (i) for “Member States” in both places it occurs substitute “States”;
- (ii) omit “referred to in Article 6(b)”.

26. In Article 46a—

- (a) in the heading for “legislations of the Member States” substitute “legislation of Gibraltar”;
- (b) in paragraph 3 for “a Member State” substitute “Gibraltar”;
- (c) in paragraph 3(a)—
 - (i) for “another Member State” in both places it occurs substitute “a Member State”;
 - (ii) for “the first Member State” substitute “Gibraltar”;
- (d) in paragraph 3(b) and (c) for “another Member State” substitute “a Member State”;
- (e) in paragraph 3(d)—
 - (i) for “only one Member State” substitute “Gibraltar”;
 - (ii) for “other Member States” in each place it occurs substitute “Member States”;
 - (iii) for “the first Member State” substitute “Gibraltar”.

27. In Article 46b—

- (a) in the heading and in the first place it occurs for “two” substitute “Gibraltar and one”;
- (b) for “a Member State” in both places it occurs substitute “Gibraltar”.

28. In Article 46c—

- (a) in the heading omit “, where two or more Member States are concerned”;
- (b) in paragraph 1 for “the Member States concerned” substitute “Gibraltar”;
- (c) in paragraph 2—

- (i) for “other Member States” substitute “Member States”;
- (ii) for “the Member State” substitute “Gibraltar”;
- (d) in paragraph 3 for “the Member States concerned” substitute “Gibraltar”;
- (e) in paragraph 4—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that Member State” substitute “Gibraltar”;
- (f) in paragraph 5—
 - (i) for “one or more Member States” substitute “Gibraltar”;
 - (ii) for “another Member State” substitute “a Member State”.

29. In Article 47—

- (a) in paragraph 1(a)—
 - (i) for “Member States” substitute “States”;
 - (ii) for “one of these States” substitute “Gibraltar”;
 - (iii) after “full benefit,” insert “and where Gibraltar is one of these States,”;
 - (iv) for “that State” substitute “Gibraltar”;
 - (v) for “which it administers” substitute “of Gibraltar”;
- (b) in paragraph 1(c)—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that State” substitute “Gibraltar”;
 - (iii) for “the said State” substitute “Gibraltar”;
- (c) in paragraph 1(d)—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “the State” substitute “Gibraltar”;
 - (iii) for “other Member States” substitute “Member States”;
 - (iv) for “which it administers” substitute “of Gibraltar”;

- (d) in paragraph 1(e)—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that State” substitute “Gibraltar”;
 - (iii) for “other Member States” substitute “Member States”;
 - (iv) for “which it administers” substitute “of Gibraltar”;
- (e) in paragraph 1(f)—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that State” substitute “Gibraltar”;
 - (iii) for “other Member States” in both places it occurs substitute “Member States”;
 - (iv) for “which it administers” substitute “of Gibraltar”;
- (f) in paragraph 1(g)—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) after “competent institution” insert “in Gibraltar”;
 - (iii) for “the said State” substitute “Gibraltar”;
- (g) in paragraph 2—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that state” substitute “Gibraltar”;
 - (iii) for “other Member States” substitute “Member States”;
- (h) in paragraph 3—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that State” substitute “Gibraltar”;
 - (iii) for “another Member State” substitute “a Member State”;
 - (iv) for “the competent State” substitute “Gibraltar”;
- (i) in paragraph 4—

- (i) for “which the competent institution of a Member State administers” substitute “of Gibraltar”;
- (ii) for “this Member State” substitute “Gibraltar”;
- (iii) for “that Member State” substitute “Gibraltar”;
- (iv) for “which it administers” substitute “of Gibraltar”.

30. In Article 48—

- (a) in paragraph 1 for “a Member State” substitute “Gibraltar”;
- (b) in paragraph 2 for “each of the Member States concerned” substitute “Gibraltar”;
- (c) in paragraph 3—
 - (i) for “Member States” substitute “States”;
 - (ii) after “the legislation of” insert “Gibraltar if it is”;
 - (iii) for “that State” substitute “Gibraltar”.

31. In Article 49—

- (a) in the heading omit “or when he has expressly requested a postponement of the award of old age benefits”;
- (b) in paragraph 1—
 - (i) for “Member States” substitute “States”;
 - (ii) after “the following provisions shall apply” insert “where Gibraltar is the competent State”;
 - (iii) for “each of the competent institutions administering a legislation whose conditions” substitute “the competent institution in Gibraltar, when the conditions of its legislation,”;
 - (iv) for “one legislation” substitute “the legislation of Gibraltar”;
 - (v) for “whose conditions are satisfied, taking” substitute “of Gibraltar, taking”;
 - (vi) omit the words from “The provisions” to the end of the paragraph;
- (c) in paragraph 2—

- (i) after “Article 46,” insert “by the competent institution in Gibraltar,”;
- (ii) omit the final sentence;
- (d) in paragraph 3 after “with paragraph 1” insert “by the competent institution in Gibraltar,”.

32. In Article 50—

- (a) in the heading for “Member States” substitute “States”;
- (b) after “applies” insert “, who is resident in Gibraltar and to whom a benefit is payable under the legislation of Gibraltar,”;
- (c) omit “, in the State in whose territory he resides and under whose legislation a benefit is payable to him,”;
- (d) for “that State” substitute “Gibraltar”;
- (e) for “its territory” substitute “Gibraltar”.

33. In Article 51a—

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

PART 4

Amendments to Chapter 4: Accidents at work and occupational diseases

34. In Article 52—

- (a) in the heading for “other than the competent Member State” substitute “where Gibraltar is the competent State”;
- (b) for “An” substitute “Where Gibraltar is the competent State, an”;
- (c) omit “other than the competent State”;
- (d) after “receive in the” insert “Member”;
- (e) for “in accordance with the provisions of the legislation which it administers” substitute “of Gibraltar in accordance with the provisions of the legislation of Gibraltar”;

(f) for “competent State” substitute “Gibraltar”.

35. In Article 53—

- (a) for “A” substitute “Where Gibraltar is the competent State, a”;
- (b) for “the territory of the competent State” substitute “Gibraltar”;
- (c) for “that State” substitute “Gibraltar”.

36. In Article 54—

- (a) in the heading for “the competent State” substitute “Gibraltar”;
- (b) for “An”, in both places it occurs substitute “Where Gibraltar is the competent State, an”;
- (c) for “the territory of the competent State” in both places it occurs substitute “Gibraltar”;
- (d) for “that State” in both places it occurs substitute “Gibraltar”.

37. In Article 55—

- (a) in the heading—
 - (i) for “the competent State” substitute “Gibraltar”;
 - (ii) for “another Member State” in both places it occurs substitute “a Member State”;
- (b) in paragraph 1 for “An” substitute “Where Gibraltar is the competent State and an”;
- (c) in paragraph 1(a) omit “other than the competent State”;
- (d) in paragraph 1(b) after “competent institution” insert “in Gibraltar”;
- (e) in paragraph 1(c)(ii)—
 - (i) after “competent institution” insert “of Gibraltar”;
 - (ii) for “which it administers” substitute “of Gibraltar”;
 - (iii) for “the competent State” substitute “Gibraltar”.

38. In Article 56—

- (a) omit “other than the competent State”;
- (b) for “territory of” in the second place it occurs substitute “territory of Gibraltar, where Gibraltar is the”.

39. In Article 57—

- (a) for “Member States” in the heading and the first place it occurs substitute “States”;
- (b) for “a Member State” in each place it occurs substitute “Gibraltar”;
- (c) for “its territory” substitute “Gibraltar”;
- (d) for “another Member State” substitute “a Member State”;
- (e) for “that State” substitute “Gibraltar”;
- (f) for “other Member State” in both places it occurs substitute “Member State”;
- (g) for “the first State” in both places it occurs substitute “Gibraltar”;
- (h) for “the State” substitute “Gibraltar”;
- (i) for “shall be divided among the competent institutions of the Member” substitute “payable by the competent institution in Gibraltar shall be divided by the number of”;
- (j) omit paragraph 6.

40. In Article 58—

- (a) for “The competent institution of a Member State whose legislation” in each place it occurs substitute “Where Gibraltar is the competent State and legislation of Gibraltar”;
- (b) after “average earnings” in the first place it occurs insert “the competent institution in Gibraltar”;
- (c) after “standard earnings” in the first place it occurs insert “the competent institution in Gibraltar”;
- (d) after “in the family” insert “the competent institution in Gibraltar”;
- (e) for “another Member State” substitute “a Member State”;
- (f) for “the competent State” substitute “Gibraltar”.

41. In Article 59—

- (a) for “The competent institution of a Member State whose legislation” in both places it occurs substitute “Where Gibraltar is the competent State and legislation of Gibraltar”;
- (b) after “hospital,” insert “the competent institution in Gibraltar”;
- (c) for “another Member State” in both places it occurs substitute “a Member State”;
- (d) for “the competent institution of a Member State whose legislation” substitute “where Gibraltar is the competent State and its legislation”;
- (e) after “burial” insert “the competent institution in Gibraltar”;
- (f) for “which it administers” substitute “of Gibraltar”.

42. In Article 60—

- (a) in paragraph 1—
 - (i) for “a Member State” in the first place it occurs substitute “Gibraltar”;
 - (ii) for “another Member State” in both places it occurs substitute “a Member State”;
 - (iii) for “the first Member State” in the first three places it occurs substitute “Gibraltar”;
 - (iv) for “which it administers” in the first three places it occurs substitute “Gibraltar”;
 - (v) omit the final sentence of point (b);
 - (vi) omit “or from a disease determined under Article 57(6)”;
 - (vii) for “second Member State” substitute “Member State”;
 - (viii) omit the final sentence of point (c);
 - (ix) omit point (d);
- (b) in paragraph 2—
 - (i) after “application of the provisions of Article 57(5),” insert “and where Gibraltar is the competent State,”;
 - (ii) after “competent institution” in the first place it occurs insert “in Gibraltar”;

- (iii) for “which it administers” substitute “of Gibraltar”;
- (iv) for “continue to be divided between the institutions which shared the costs of former benefits” substitute “be divided by the number of States in whose territory the person concerned pursued an activity likely to cause the disease”;
- (v) for “Member States” substitute “States”;
- (vi) for “Member State” substitute “State”;
- (vii) after “such State” insert “, where that State is Gibraltar,”.

43. In Article 61—

- (a) in paragraphs 5 and 6—
 - (i) for “a Member State” substitute “Gibraltar”;
 - (ii) for “that Member State” substitute “Gibraltar”;
 - (iii) for “another Member State” substitute “a Member State”;
 - (iv) for “which it administers” substitute “of Gibraltar”;
- (b) in paragraph 6(2) for “other Member State” substitute “Member State”.

44. In Article 62—

- (a) for “If the legislation of the country of stay or residence” substitute “Where Gibraltar is the country of stay or residence and the legislation of Gibraltar”;
- (b) for “a Member State” substitute “Gibraltar”;
- (c) for “which administers that legislation” substitute “of Gibraltar”;
- (d) for “another Member State” substitute “a Member State”.

PART 5

Amendments to Chapter 5: Death grants

45. In Article 64—

- (a) for “The competent institution of a Member State whose legislation” substitute “Where Gibraltar is the competent State and legislation of Gibraltar”;
- (b) after “completion of periods of insurance or residence” insert “, the competent institution in Gibraltar”;

(c) for “other Member State” substitute “Member State”;

(d) for “which it administers” substitute “of Gibraltar”.

46. In Article 65—

(a) in the heading for “other than” substitute “where Gibraltar is”;

(b) in paragraph 1—

(i) for “When” substitute “Where Gibraltar is the competent State and”;

(ii) omit “other than the competent State”;

(iii) for “the competent State” substitute “Gibraltar”;

(c) in paragraph 2—

(i) for “The competent institution” substitute “Where Gibraltar is the competent State, the competent institution in Gibraltar”;

(ii) for “which it administers” substitute “of Gibraltar”;

(iii) omit “other than the competent State”.

47. In Article 66—

(a) in the heading for “a Member State other than the one” substitute “Gibraltar which is not the State”;

(b) for “one Member State” substitute “Gibraltar”;

(c) for “two” substitute “Gibraltar and one”;

(d) for “a Member State other than the one whose institution” substitute “Gibraltar and an institution in a Member State”;

(e) for “, death grants payable” to the end of the paragraph substitute “(as it applies in the European Union), Gibraltar is not responsible for the payment of death grants”.

PART 6

Amendments to Chapter 6: Unemployment benefits

48. In Article 67—

- (a) for “The competent institution of a Member State whose legislation” in both places it occurs substitute “Where Gibraltar is the competent State and the legislation of Gibraltar”;
- (b) before “shall take into account” in both places it occurs insert “, the competent institution in Gibraltar”;
- (c) for “other Member State” in both places it occurs substitute “Member State”;
- (d) for “which it administers” in both places it occurs substitute “of Gibraltar”;
- (e) after “provisions of the legislation” insert “of Gibraltar”.

49. In Article 68—

- (a) for “The competent institution of a Member State whose legislation”, in both places it occurs, substitute “Where Gibraltar is the competent State and the legislation of Gibraltar”;
- (b) before “shall take into account” in both places it occurs insert “, the competent institution in Gibraltar”;
- (c) for “the territory of that State” substitute “Gibraltar”;
- (d) for “that territory” substitute “Gibraltar”;
- (e) for “another Member State” in both places it occurs substitute “a Member State”;
- (f) for “the territory of the competent State” substitute “Gibraltar”.

50. In the heading to Section 2 of Chapter 6 to Title 3 for “other than” substitute “where Gibraltar is”.

51. In Article 69—

- (a) for “An” substitute “Where Gibraltar is the competent State, an”;
- (b) for “a Member State” substitute “Gibraltar”;
- (c) for “other Member States” substitute “Member States”;
- (d) for “the competent State” in each place it occurs substitute “Gibraltar”;
- (e) after “competent services or institutions” in each place it occurs insert “in Gibraltar”;
- (f) after “He must” insert “take reasonable steps to”;
- (g) for “the State he left” substitute “Gibraltar”;

(h) for “the State which he left” substitute “Gibraltar”;

(i) for “that State” in both places it occurs substitute “Gibraltar”.

52. For Article 70 substitute—

“In the cases referred to in Article 69(1) where Gibraltar is the competent State, benefits shall be provided by the competent institution in Gibraltar.”.

53. In the heading to Section 3 of Chapter 6 to Title 3 for “Member State” substitute “State”.

54. In Article 71—

(a) in paragraph 1 for “Member State” in the first place it occurs substitute “State”;

(b) in paragraph 1(a)(i)—

(i) for “A” substitute “Where Gibraltar is the competent State, a”;

(ii) for “the competent State” substitute “Gibraltar”;

(iii) for “the territory of that State” substitute “Gibraltar”;

(iv) after “competent institution” insert “in Gibraltar”;

(c) in paragraph 1(a)(ii)—

(i) for “A” substitute “Where the State where he resides is Gibraltar, a”;

(ii) for “the Member State in whose territory he resides” substitute “Gibraltar”;

(iii) for “the place of residence” substitute “Gibraltar”;

(d) in paragraph 1(b)(i)—

(i) for “An” substitute “Where Gibraltar is the competent State, an”;

(ii) for “the territory of the competent State” substitute “Gibraltar”;

(iii) for “that State” substitute “Gibraltar”;

(iv) for “its territory” substitute “Gibraltar”;

(v) after “competent institution” insert “in Gibraltar”;

(e) in paragraph 1(b)(ii)—

- (i) for “An” substitute “Where the State he resides is Gibraltar, an”;
- (ii) for “the territory of the Member State in which he resides, or who returns to that territory” substitute “Gibraltar, or who returns to Gibraltar”;
- (iii) for “that State” substitute “Gibraltar”;
- (iv) for “the place of residence” substitute “Gibraltar”;
- (v) omit the final two sentences;
- (f) in paragraph 2 for “Member State” substitute “State”.

55. In Article 71a—

- (a) for “An” substitute “Where Gibraltar is the competent State, an”;
- (b) omit “other than the competent State”;
- (c) for “the competent State” substitute “Gibraltar”;
- (d) for “the territory of that State” substitute “Gibraltar”;
- (e) after “competent institution” insert “in Gibraltar”.

PART 7

Amendments to Chapter 7: Family benefits

56. In Article 72—

- (a) for “a Member State” substitute “Gibraltar”;
- (b) for “that State” substitute “Gibraltar”;
- (c) for “other Member State” substitute “Member State”;
- (d) for “which it administers” substitute “of Gibraltar”.

57. In Article 72a—

- (a) for “the territory of the same Member State as he” substitute “Gibraltar”;
- (b) for “the State” substitute “Gibraltar”;
- (c) for “the place of residence” substitute “Gibraltar”;
- (d) for “that institution applies legislation providing” substitute “the legislation of Gibraltar provides”;

- (e) for “it” substitute “the institution in Gibraltar”;
- (f) for “its legislation” substitute “the legislation of Gibraltar”.

58. In Articles 73 and 74—

- (a) in the heading for “other than” substitute “where Gibraltar is”;
- (b) for “a Member State” substitute “Gibraltar”;
- (c) for “another Member State” substitute “a Member State”;
- (d) for “the former State” substitute “Gibraltar”;
- (e) for “that State” substitute “Gibraltar”.

59. In Article 75—

- (a) in paragraph 1—
 - (i) for “Family” substitute “Where Gibraltar is the competent State, family”;
 - (ii) for “Article 73” insert “Articles 73 and 74”;
 - (iii) for “the State to the legislation” to “receives unemployment benefits” substitute “Gibraltar”;
 - (iv) for “such institutions” substitute “the competent institution in Gibraltar”;
 - (v) for “the competent State” substitute “Gibraltar”;
 - (vi) for “another Member State” substitute “a Member State”;
- (b) in paragraph 2 after “the competent institution” insert “in Gibraltar”;
- (c) omit paragraph 3.

60. In Article 76—

- (a) in the heading for “the Member State” substitute “State”;
- (b) for “another Member State” substitute “Gibraltar”;
- (c) for “first Member State” in both places it occurs substitute “Member State”;
- (d) for “other Member State” substitute “Gibraltar”.

Amendments to Chapter 8: Benefits for dependent children of pensioners and for orphans

61. In Article 77—

- (a) in paragraph 2 for “Member State” in the first place it occurs substitute “State”;
- (b) in paragraph 2(a)—
 - (i) for “one Member State” substitute “Gibraltar”;
 - (ii) for “the Member State responsible for the pension” substitute “Gibraltar”;
- (c) in paragraph 2(b) for “Member State” in the first place it occurs substitute “State”;
- (d) in paragraph 2(b)(i)—
 - (i) at the beginning insert “if he resides in Gibraltar,”;
 - (ii) for “whichever of these States he resides in” substitute “Gibraltar”;
 - (iii) for “that State” substitute “Gibraltar”;
- (e) in paragraph 2(b)(ii)—
 - (i) for “the Member State” substitute “Gibraltar provided that the legislation”;
 - (ii) after “period of time” insert “is that of Gibraltar and”;
 - (iii) omit from “if no right” to the end of the Article.

62. In Article 78—

- (a) in paragraph 2 for “Member State” in the first place it occurs substitute “State”;
- (b) in paragraph 2(a)—
 - (i) for “one Member State” substitute “Gibraltar”;
 - (ii) for “that State” substitute “Gibraltar”;
- (c) in paragraph 2(b) for “Member States” in the first place it occurs substitute “States”;
- (d) in paragraph 2(b)(i)—
 - (i) at the beginning insert “where the orphan resides in Gibraltar,”;

- (ii) for “the Member State in whose territory the orphan resides” substitute “Gibraltar”;
- (iii) for “that Member State” substitute “Gibraltar”;
- (e) in paragraph 2(b)(ii)—
 - (i) for “the Member State” substitute “Gibraltar, provided that the”;
 - (ii) after “period of time” insert “is that of Gibraltar and”;
 - (iii) for “that State” substitute “Gibraltar”;
 - (iv) omit the words from “if no right” to the end of point (ii);
- (f) in paragraph 2 in the last sentence—
 - (i) for “the legislation of the Member State” substitute “where the legislation of Gibraltar is the legislation”;
 - (ii) after “children” insert “, that legislation”.

63. In Article 79—

- (a) in paragraph 1—
 - (i) for “determined by applying” to “such legislation” substitute “of Gibraltar by the competent institution in Gibraltar”;
 - (ii) for “the competent State” substitute “Gibraltar”;
 - (iii) for “that legislation” in both places it occurs substitute “the legislation of Gibraltar”;
- (b) omit paragraph 2;
- (c) in paragraph 3 for “national legislation or under the provisions of paragraph 2 and” substitute “legislation of Gibraltar or”.

64. In Article 79a for “that Member State” substitute “Gibraltar”.

SCHEDULE 4

Regulation 2(d)

Amendments to Title 6: Miscellaneous provisions

1. In Article 84—

- (a) omit paragraphs 1 and 2;
- (b) in paragraph 3 for “Member States” substitute “States”;
- (c) in paragraph 4—
 - (i) for “one Member State” substitute “Gibraltar”;
 - (ii) for “another Member State” substitute “a Member State”;
 - (iii) omit the final sentence;

(d) after paragraph 4 insert—

“4A. Gibraltar may provide or exchange all data necessary for establishing and determining the rights and obligations of any person to whom this Regulation applies, including the establishing and determining of those rights and obligations by a Member State applying this Regulation as it applies in the European Union.”;

(e) in paragraph 5—

- (i) for “a Member State” substitute “Gibraltar”;
- (ii) for “another Member State” substitute “a Member State”;
- (iii) for “the Member State providing the data” substitute “Gibraltar”;
- (iv) for “Any” substitute “Where personal data is communicated to Gibraltar, any”;
- (v) for “the receiving Member State” substitute “Gibraltar”.

2. In Article 84a—

- (a) in the heading after “the institutions” insert “of Gibraltar”;
- (b) after “The institutions” in the first two places it occurs insert “of Gibraltar”;
- (c) after “queries” insert “from persons covered by this Regulation”;
- (d) for “national law” substitute “the law of Gibraltar”;

(e) omit paragraph 3.

3. In Article 85—

(a) in paragraph 1—

- (i) for “one Member State” substitute “Gibraltar”;
- (ii) for “that State” substitute “Gibraltar”;
- (iii) for “another Member State” substitute “a Member State”;

(b) in paragraph 3—

- (i) for “another Member State” substitute “Gibraltar”;
- (ii) for “receiving institution” substitute “institution of Gibraltar”;
- (iii) for “one social security institution to another” substitute “a social security institution in Gibraltar to another social security institution”;
- (iv) for “relevant Community provisions” substitute “law of Gibraltar”.

4. In Article 86—

(a) in the heading for “Member State” substitute “State”;

(b) for paragraph 1 substitute—

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

1A. 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 of the Member State shall be considered as the date of its submission to the competent authority, institution or tribunal in Gibraltar.”;

(c) in paragraph 2—

- (i) after “Where” insert “Gibraltar is the competent State, and where”;

- (ii) after “tribunal” insert “in Gibraltar”;
- (iii) for “the Member State which is” substitute “Gibraltar as the State”;
- (iv) for “that State” substitute “Gibraltar”;
- (v) for “first Member State” substitute “Member State”.

5. In Article 87—

- (a) in paragraph 1—
 - (i) for “Member State” in both places it occurs substitute “State”;
 - (ii) for “Member States” substitute “States”;
- (b) in paragraph 2—
 - (i) for “Medical” substitute “Where Gibraltar is the competent State, medical”;
 - (ii) for “the competent State” substitute “Gibraltar”.

6. In Article 88—

- (a) in the heading for “Member State” substitute “State”;
- (b) for “the relevant agreements” substitute “any relevant agreements”;
- (c) for “Member States” in the first place it occurs substitute “States”;
- (d) omit the final sentence.

7. In Article 89 for “Member States” substitute “States”.

8. In Article 91—

- (a) in the heading for “the competent State” substitute “Gibraltar”;
- (b) for “An” substitute “Where the competent State is Gibraltar, an”;
- (c) after “contributions” insert “in Gibraltar”;
- (d) omit “other than the competent State”.

9. In Article 92—

- (a) for “one Member State” substitute “a Member State”;

- (b) for “another Member State” substitute “Gibraltar”;
- (c) for “the latter State” substitute “Gibraltar”;
- (d) for “Member States” substitute “States”.

10. In Article 93—

- (a) in paragraph 1—
 - (i) for “one Member State” substitute “one State”;
 - (ii) for “each Member State” in both places it occurs substitute “Gibraltar”;
- (b) in paragraph 2—
 - (i) for “one Member State” substitute “Gibraltar”;
 - (ii) for “another Member State” substitute “a Member State”;
 - (iii) after “competent institution” insert “in Gibraltar”;
 - (iv) after “rights of the institution” insert “in Gibraltar”;
- (c) omit paragraph 3.

SCHEDULE 5

Regulation 2(e)

Amendments to Title 7: Transitional and final provisions

1. In Article 94—

- (a) for “Member State” in each place it occurs substitute “State”;
- (b) in paragraphs 6 and 7 omit the second subparagraph;
- (c) omit paragraph 9.

2. In Article 95—

- (a) for “Member State” in each place it occurs substitute “State”;
- (b) in paragraphs 6 and 7 omit the second subparagraph.

3. In Article 95a for “Member State” in each place it occurs substitute “State”.

4. In Article 95b—

- (a) for “Member State” in each place it occurs substitute “State”;
- (b) omit paragraph 12.

5. In Articles 95c, 95d and 95e for “Member State” in each place it occurs substitute “State”.

6. Omit Articles 95f to 97.

7. After Article 99 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 3—

- (a) in the heading to Annex 3 omit “notwithstanding Article 6 of the Regulation”;
- (b) in the sub-heading in brackets for “Articles 7(2)(c) and 3(3)” substitute “Article 7(2)(c)”;
- (c) under the heading “General comments” in paragraph 3—
 - (i) for “Account being taken of the provisions of Article 6 of this Regulation, it” substitute “It”;
 - (ii) for “Member States” substitute “States”;
- (d) in the heading to Part A omit “notwithstanding Article 6 of the Regulation”.

2. In Annex 4—

- (a) in Part C under the heading AA. UNITED KINGDOM for “another Member State” in both places it occurs substitute “a Member State”;
- (b) in Part D—
 - (i) in paragraph 1 omit points (b) to (i);
 - (ii) omit paragraphs 2 and 3.

3. Omit Annex 5.

4. In Annex 6—

- (a) in the heading of Annex 6 for “Member States” substitute “States”;
- (b) under the heading AA. UNITED KINGDOM—
 - (i) in points 1, 5 and 13.2 omit “other than the United Kingdom”;
 - (ii) in point 2 for “Member States” substitute “States”;
 - (iii) in points 3, 13.1, 17, 19 and 20 for “another Member State” in each place it occurs substitute “a Member State”;

- (iv) in point 13.2(a) and point 19(a) for “other Member State” substitute “Member State”.

5. Omit Annex 7.

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 Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community. This is one of the EU Regulations which makes provision for the coordination of social security. In particular they make amendments to prevent, remedy or mitigate the deficiencies in 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.

It also makes amendments to Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality. This is another EU Regulation which makes provision for the coordination of social security.