SCHEDULE 2

Cases arising during cross-border arrangements

# PART 2

## Modifications to secondary legislation

### Modifications to the Welsh Ambulance Services National Health Service Trust (Establishment) Order 1998

**5.** The Welsh Ambulance Services National Health Service Trust (Establishment) Order 1998 is to be read as if—

(a) in article 1(2) (interpretation)—

(i) the definition of "Directive 2011/24/EU" were omitted;

(ii) for the definition of "National Contact Point" there were substituted—

""National Contact Point" means the National Contact Point that may be designated in relation to Wales under regulation 2 of the National Health Service (Cross-Border Healthcare) Regulations 2013;"

(b) in article 3(2)(d) (nature and functions of the trust), the reference to "for the purposes of Directive 2011/24/EU" were omitted.

### Modifications to the 2013 Regulations

**6.** The 2013 Regulations are to be read as if—

(a) in regulation 1(3) (interpretation)—

(i) after the definition of "clinical commissioning group" there were inserted—

""cross-border arrangements" is to be construed in accordance with regulation 16 of the National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019;"

(ii) in the definition of "healthcare provider" for "member State" there were substituted "relevant member State";

(iii) for the definition of "prescription", there were substituted—

""prescription" means a prescription for a medicinal product issued by a person who is practising in a profession included in the list published under regulation 214(6A)(**1**) of the Human Medicines Regulations 2012(**2**) in a member State that is included in that list in relation to that profession;""

(iv) after the definition of "prescription" there were inserted—

""relevant member State" means a member State which is included in a list maintained under regulation 16 of the National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019;";

(v) for the definition of "resident patient" there were substituted—

(**1**) Paragraph (6A) is inserted into the Human Medicines Regulations 2012 by S.I. 2019/775.
(**2**) S.I. 2012/1916.

""resident patient" means an individual who is ordinarily resident in England or Wales;";

(vi) in the definition of ""visiting patient" for "a member State other than the United Kingdom" there were substituted "a relevant member State"";

(b) in regulation 2 (national contact point: designation)—

(i) for references to "must" there were substituted "may";

(ii) for references to "the Directive" there were substituted "cross-border arrangements";

(c) in regulation 3 (NCP: information about treatment in England and Wales)—

(i) in paragraph (1), before "ensure" there were inserted "make reasonable efforts to";

(ii) in paragraph (2), before "ensure" there were inserted "make reasonable efforts to";

(d) in the heading to regulation 4 (NCP: information about treatment in a member State), for the reference to "another member State" there were substituted "a relevant member State";

(e) in regulation 4(1)—

(i) for references to "other member States" there were substituted "relevant member States";

(ii) before "ensure" there were inserted "make reasonable efforts to";

(iii) for the reference to "another member State" there were substituted "a relevant member State";

(f) in the heading to regulation 4A (NCP: information about prescriptions), for the reference to "another member State" there were substituted "the United Kingdom";

(g) for regulation 4A there were substituted—

"(4A) The NCP must make reasonable efforts to make available to patients information about the elements, specified in the Schedule, to be included in a prescription which is—

(a) issued in a member State included in the list published under regulation 214(6A) of the Human Medicines Regulations 2012(**3**), and

(b) intended to be used in the United Kingdom.";

(h) in regulation 5 (NCP: cross-border co-operation) —

(i) for paragraph (1) there were substituted—

"(1) In so far as it considers it is appropriate for the purposes of giving effect to cross-border arrangements, the NCP must make reasonable efforts to co-operate with the national contact points in relevant member States and any other national contact points in the United Kingdom.";

(ii) in paragraph (2), after "must" there were inserted "so far as the NCP considers appropriate;

(i) in regulation 6 (NCP: duty to consult), for the words from "the Directive", in the first place, to "in these Regulations)", there were substituted "cross-border arrangements";

(j) for regulation 9(1) (information on rights and entitlements) there were substituted—

"(1) The Board or a clinical commissioning group must make reasonable efforts to ensure that information on their rights and entitlements under sections 6BA and 6BB of the NHS Act is provided to resident patients for whom the Board or the clinical commissioning group is responsible for making services available under that Act.";

(k) for regulation 12(1) (information on rights and entitlements) there were substituted—

(**3**) Paragraph (6A) of regulation 214 is inserted by S.I. 2019/775.

"(1) A Local Health Board must make reasonable efforts to ensure that information on their rights and entitlements under sections 6BA and 6BB of the NHS (Wales) Act is provided to resident patients for whom it is responsible for making services available under that Act.";

(l) in regulation 13(2) (NHS charges)—

(i) in paragraph (a) of the definition of "cross-border healthcare service", for the reference to "that patient exercising their rights in relation to access to healthcare under the Directive" there were substituted "cross-border arrangements";

(ii) in the definition of "responsible authority", for the reference to "section 6A(11)" there were substituted "section 6BA(15)";

(m) in the heading to regulation 14 (exemption from NHS charges), for the reference to "another member State" there were substituted "a relevant member State";

(n) in regulation 14—

(i) in paragraph (2)(a), for the reference to "a member State other than the United Kingdom" there were substituted "a relevant member State";

(ii) in paragraph (3)(b), after the reference to "it is not provided" there were inserted "or, had it been provided immediately before exit day, it would not be provided";

(iii) in paragraph (4)(b), at the end there were inserted "as continued by regulation 17 of, and Schedule 5 to, the Social Security Coordination (Reciprocal Healthcare) (Amendment etc.) (EU Exit) Regulations 2019";

(o) in regulation 16 (review), after paragraph (5) there were inserted—

"(6) No review may be carried out after 31 December 2020.";

(p) in the heading to the Schedule (elements that must be included in prescriptions)(**4**) for the reference to "ANOTHER MEMBER STATE" there were substituted "THE UNITED KINGDOM";

(q) in the Schedule—

(i) in paragraph 4(a), for "Article 1" to the end there were substituted "regulation 8(1) of the Human Medicines Regulations 2012";

(ii) in paragraph 4(b)(i), at the end there were inserted "as modified by Schedule 8B to the Human Medicines Regulations 2012";

(iii) in paragraph 4(e), the reference to "as defined in Article 1 of Directive 2001/83/EC" were omitted.

**Modifications to the National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013**

**7.** The NHS Functions Regulations are to be read as if—

(a) in regulation 3(a) (exercise of functions)—

(i) the reference to "sections 6A and 6B of the 2006 Act (prior authorisation of and reimbursement of costs of services provided in another EEA state) or" were omitted;

(ii) for the second reference to "another EEA state" there were substituted "an EEA state";

(b) in regulation 4 (procedure for applications)—

(**4**) The Schedule was inserted by S.I. 2015/139.

(i) in paragraph (1)(a), for the reference to "section 6A or 6BA" there were substituted "section 6BA";

(ii) in paragraph (1)(b), for the reference to "section 6B or 6BB" there were substituted "section 6BB";

(iii) in paragraph (3)(a) for the reference to "section 6A or 6BA" there were substituted "section 6BA";

(iv) in that paragraph, for the reference to "section 6B or 6BB" there were substituted "section 6BB";

(c) in regulation 6 (form and content of determination)—

(i) in paragraph (2)(a), for the reference to "section 6A or 6BA" there were substituted "section 6BA";

(ii) in paragraph (2)(b), for the reference to "section 6B or 6BB" there were substituted "section 6BB";

(d) in regulation 7(3)(a) (CCGs), for the reference to "section 6A or 6BA" there were substituted "section 6BA";

(e) regulation 8 (applications made before 1st April 2013) were omitted.