
STATUTORY INSTRUMENTS

2019 No. 777

**EXITING THE EUROPEAN UNION
NATIONAL HEALTH SERVICE,
ENGLAND AND WALES
CONSTITUTIONAL LAW
DEVOLUTION, WALES
LOCAL GOVERNMENT, ENGLAND
SOCIAL SECURITY**

The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019

Made - - - - 2nd April 2019

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^{M1}.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Marginal Citations

M1 2018 c.16.

PART 1

Preliminary

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 and come into force on exit day^{M2}.

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

(2) In these Regulations—

“the NHS Act 2006” means the National Health Service Act 2006 ^{M3};

“the NHS (Wales) Act” means the National Health Service (Wales) Act 2006 ^{M4};

“the 2013 Regulations” means the National Health Service (Cross-Border Healthcare) Regulations 2013 ^{M5};

“the NHS Functions Regulations” means the National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013 ^{M6}.

(3) An amendment, repeal or revocation made by these Regulations has the same extent and application as the provision being amended, repealed or revoked.

(4) The amendments, repeals and revocations made by Parts 2 and 3 take effect subject to the provisions made by Part 5 of these Regulations.

Commencement Information

I1 Reg. 1 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M2 Section 20(1) of the European Union (Withdrawal) Act 2018 defines “exit day”.

M3 [2006 c.41](#).

M4 [2006 c.42](#).

M5 [S.I. 2013/2269](#); as amended by [S.I. 2015/139](#) and 238.

M6 [S.I. 2013/261](#); amended by [S.I. 2013/2269](#); there are other amending instruments but none is relevant.

PART 2

Amendments to primary legislation

The Health and Social Security Act 1984

2.—(1) The Health and Social Security Act 1984 ^{M7} is amended as follows.

(2) Omit section 10 (reimbursement of cost of medical and maternity treatment in member States of European Economic Community).

(3) In section 26(4) (extent) omit “section 10”.

Commencement Information

I2 Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M7 [1984 c.48](#). Functions under section 10 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, [S.I. 1999/672](#); those functions are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the [Government of Wales Act 2006 \(c.32\)](#).

The National Health Service Act 2006

3. In the NHS Act 2006 omit the following provisions—

- (a) section 6A (reimbursement of cost of services provided in another EEA state) ^{M8};
- (b) section 6B (prior authorisation for the purposes of section 6A) ^{M9};
- (c) section 6BA (reimbursement of cost of services provided in another EEA state where expenditure incurred on or after 25 October 2013) ^{M10};
- (d) section 6BB (prior authorisation for the purposes of section 6BA) ^{M11};
- (e) section 6D (regulations relating to EU obligations) ^{M12};
- (f) section 6E(7)(b) (regulations as to the exercise of functions by the Board or clinical commissioning groups) ^{M13};
- (g) section 183(a)(ii) (payment of travelling expenses) ^{M14};
- (h) the definition of “Regulation (EC) No. 883/2004” in section 275(1) (interpretation) ^{M15} except in so far as it relates to section 183(a)(iii).

Commencement Information

- I3** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

- M8** Section 6A was inserted by [S.I. 2010/915](#) and amended by paragraph 3 of Schedule 4 to the [Health and Social Care Act 2012 \(c.7\)](#) (“the 2012 Act”) and [S.I. 2013/2269](#).
- M9** Section 6B was inserted by [S.I. 2010/915](#) and amended by paragraph 4 of Schedule 4 to the 2012 Act.
- M10** Section 6BA was inserted by [S.I. 2013/2269](#).
- M11** Section 6BB was inserted by [S.I. 2013/2269](#).
- M12** Section 6D was inserted by section 19 of the 2012 Act.
- M13** Section 6E was inserted by section 20 of the 2012 Act.
- M14** Section 183(a) was substituted by [S.I. 2010/915](#) and amended by paragraph 98 of Schedule 4 to the 2012 Act and by [S.I. 2013/2269](#).
- M15** The definition was inserted by [S.I. 2010/915](#).

The National Health Service (Wales) Act 2006

4.—(1) The NHS (Wales) Act is amended as follows.

(2) In section 46 (GMS contracts: prescription of drugs, etc)—

- (a) in subsection (3), for “Community marketing authorization or United Kingdom” substitute “UK”;
- (b) for subsection (4) substitute—

“(4) “UK marketing authorisation” has the meaning given by regulation 8(1) of the Human Medicines Regulations 2012 (S.I. 2012/1916).”.

(3) Omit the following provisions—

- (a) section 6A (reimbursement of cost of services provided in another EEA state) ^{M16};
- (b) section 6B (prior authorisation for the purposes of section 6A) ^{M17};
- (c) section 6BA (reimbursement of cost of services provided in another EEA state where expenditure incurred on or after 25 October 2013) ^{M18};

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

- (d) section 6BB (prior authorisation for the purposes of section 6BA) ^{M19};
- (e) section 131(a)(ii) (payment of travelling expenses) ^{M20};
- (f) the definition of “Regulation (EC) No. 883/2004” in section 206(1) (interpretation) ^{M21} except in so far as it relates to section 131(a)(iii).

Commencement Information

I4 Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M16 Section 6A was inserted by [S.I. 2010/915](#) and amended by [S.I. 2013/2269](#).

M17 Section 6B was inserted by [S.I. 2010/915](#) and amended by [S.I. 2013/2269](#).

M18 Section 6BA was inserted by [S.I. 2013/2269](#).

M19 Section 6BB was inserted by [S.I. 2013/2269](#).

M20 Section 131(a) was substituted by [S.I. 2010/915](#) and amended by [S.I. 2013/2269](#).

M21 The definition was inserted by [S.I. 2010/915](#).

The Health and Social Care Act 2012

5. In the Health and Social Care Act 2012 ^{M22} omit the following provisions—
- (a) section 124(9) (local modifications of prices: agreements);
 - (b) section 125(9) (local modifications of prices: applications).

Commencement Information

I5 Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M22 [2012 c.7](#).

The Cities and Local Government Devolution Act 2016

6. In the Cities and Local Government Devolution Act 2016 ^{M23} omit section 18(2)(b) (devolving health service functions).

Commencement Information

I6 Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M23 [2016 c.1](#).

PART 3

Amendments to secondary legislation

The Welsh Ambulance Services National Health Service Trust (Establishment) Order 1998

7. The Welsh Ambulance Services National Health Service Trust (Establishment) Order 1998^{M24} is amended as follows—

- (a) in article 1(2) (interpretation), omit the definitions of “Directive 2011/24/EU” and “National Contact Point”;
- (b) omit article 3(2)(d) (nature and functions of the trust) but not the “and” after it.

Commencement Information

I7 Reg. 7 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M24 [S.I. 1998/678](#); relevant amendments were made by [S.I. 2013/2729](#).

The National Assembly for Wales (Transfer of Functions) Order 1999

8. In Schedule 1 (enactments conferring functions transferred by article 2) to the National Assembly for Wales (Transfer of Functions) Order 1999^{M25} omit the entry relating to the Health and Social Security Act 1984.

Commencement Information

I8 Reg. 8 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M25 [S.I. 1999/672](#); to which there are amendments not relevant to these Regulations.

[^{F1}The National Health Service (General Medical Services Contracts) (Prescription of Drugs etc.) Regulations 2004

9.—(1) The National Health Service (General Medical Services Contracts) (Prescription of Drugs etc.) Regulations 2004 are amended as follows.

(2) In Schedule 2 (drugs, medicines and other substances that may be ordered only in certain circumstances), in the entry in column 2 of the table that corresponds to the entry in column 1 relating to drugs for the treatment of erectile dysfunction—

- (a) for sub-paragraph (b) (including the “or” at the end) substitute—
 - “(b) a man who is a national of an EEA State who—
 - (i) immediately before IP completion day was entitled to treatment by virtue of Article 7(2) of Council Regulation 1612/68 as extended by the EEA Agreement or was entitled to treatment by virtue of any other enforceable EU right;

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Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

- (ii) has erectile dysfunction and was on 14th September 1998 receiving a course of treatment under a national health insurance system of an EEA State for that condition with any of the drugs listed in sub-paragraph (a); and
 - (iii) immediately before IP completion day was receiving a course of treatment as part of the health service for the condition mentioned in paragraph (ii) of this sub-paragraph with any of the drugs listed in sub-paragraph (a); or”;
- (b) for sub-paragraph (c) (including the “or” at the end) substitute—
- “(c) a man who is not a national of an EEA State but who is the member of the family of such a national and who—
- (i) immediately before IP completion day had an enforceable EU right to be treated no less favourably than the national in the provision of medical treatment;
 - (ii) has erectile dysfunction and was on 14th September 1998 receiving a course of treatment for that condition with any of the drugs listed in sub-paragraph (a); and
 - (iii) immediately before IP completion day was receiving a course of treatment as part of the health service for the condition mentioned in paragraph (ii) of this sub-paragraph with any of the drugs listed in sub-paragraph (a); or”.]

F1 Reg. 9 substituted (31.12.2020 immediately before IP completion day) by [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **8**

Commencement Information

I9 Reg. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

PROSPECTIVE

The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) Regulations 2004

F2¹⁰.

F2 Reg. 10 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **9**

The National Health Service (Cross-Border Healthcare) Regulations 2013

11. The 2013 Regulations are revoked.

Commencement Information

I10 Reg. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

The National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013

12.—(1) The NHS Functions Regulations^{M26} are amended as follows.

(2) Omit the following provisions—

- (a) regulation 3(a) (exercise of functions);
- (b) regulation 4(1)(a) and (b) (procedure for applications);
- (c) regulation 6(2)(a) and (b) (form and content of determination);
- (d) regulation 7(3) and (4) (CCGs);
- (e) regulation 8 (applications made before 1st April 2013).

(3) For regulation 4(3)(a) substitute—

- “(a) information about the procedures the Board has in place for prior authorisation pursuant to Article 20 or Article 27(3);”

Commencement Information

I11 Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M26 [S.I. 2013/261](#); relevant amendments were made by [S.I. 2013/2269](#); there are other amending instruments but none are relevant.

PART 4

Revocation of retained direct EU legislation

2011/890/EU: Commission Implementing Decision

13. 2011/890/EU: Commission Implementing Decision of 22 December 2011 providing the rules for the establishment, the management and the functioning of the network of national responsible authorities on eHealth is revoked.

Commencement Information

I12 Reg. 13 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

2013/329/EU: Commission Implementing Decision

14. 2013/329/EU: Commission Implementing Decision of 26 June 2013 providing the rules for the establishment, management and transparent functioning of the Network of national authorities or bodies responsible for health technology assessment is revoked.

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

Commencement Information

I13 Reg. 14 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

PART 5

Savings and Transitional Provision

Cross-border cases arising before ^{F3}IP completion day

15.—(1) The legislation referred to in Parts 2 and 3, except for regulations 2, 4(2), 8, 9 and 10 is to continue to apply on and after [^{F3}IP completion day] without the amendments, repeals and revocations made by those Parts, and with the modifications made by Schedule 1 in a case where any of paragraphs (2) to (5) apply.

(2) This paragraph applies where a service that satisfied the condition in section 6A(3) or (4) or 6BA(4) or (7) of the NHS Act 2006 or the NHS (Wales) Act was provided, or began to be provided, before [^{F3}IP completion day].

(3) This paragraph applies where an application for authorisation under section 6B or 6BB of the NHS Act 2006 or the NHS (Wales) Act has been made, but not determined, before [^{F3}IP completion day].

(4) This paragraph applies where authorisation has been given under section 6B or 6BB of the NHS Act 2006 or the NHS (Wales) Act before [^{F3}IP completion day].

(5) This paragraph applies where a cross-border healthcare service was provided or began to be provided to a visiting patient before [^{F3}IP completion day].

(6) Nothing in this regulation—

(a) requires reimbursement in respect of a service which was provided after the later of—

(i) the end of the period of one year beginning with the day after the day on which [^{F3}IP completion day] falls, or

(ii) in a case where the authorisation for the service authorises the service to be provided within a specified period, the end of the specified period;

(b) imposes an obligation in relation to a charge to a visiting patient for a service which was provided after the end of the period of one year beginning with the day after the day on which [^{F3}IP completion day] falls.

(7) In this regulation—

“cross-border healthcare service” and “visiting patient” have the same meaning as in the 2013 Regulations;

“service” is to be construed in accordance with section 6A or section 6BA of the NHS Act 2006 or, as the case may be, of the NHS (Wales) Act.

F3 Words in reg. 15 substituted (31.12.2020 immediately before IP completion day) by [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, 10

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

Commencement Information

I14 Reg. 15 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(1)

PROSPECTIVE

Cases arising during cross-border arrangements

F4 **16.**

F4 Reg. 16 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **11**

PROSPECTIVE

Savings provision for cases arising during cross-border arrangements

F5 **17.**

F5 Reg. 17 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **11**

PART 6

Rights etc deriving from the Treaties

EU-derived rights

18. Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which continue to be recognised and available in domestic law ^{M27} by virtue of section 4 of the European Union (Withdrawal) Act 2018 (including as they are modified by domestic law from time to time) cease to be recognised and available in domestic law so far as they are inconsistent with, or are otherwise capable of affecting the interpretation, application or operation of, provision made by these Regulations.

Commencement Information

I15 Reg. 18 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M27 “Domestic law” is defined in section 20 of the European Union (Withdrawal) Act 2018.

Status: *This version of this Instrument contains provisions that are prospective.*

Changes to legislation: *There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)*

Signed by authority of the Secretary of State for Health and Social Care.

Department of Health and Social Care

Stephen Hammond
Minister of State,

SCHEDULE 1

Regulation 15

Cross-border cases arising before [^{F6}IP completion day]

F6 Words in Sch. 1 heading substituted (31.12.2020 immediately before IP completion day) by [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **12(a)**

PART 1

Modifications to primary legislation

Modifications to the NHS Act 2006

1. The NHS Act 2006 is to be read as if—
 - (a) in the headings to sections 6A and 6BA (reimbursement of cost of services provided in an EEA state), for references to “another EEA state” there were substituted “ an EEA state ”;
 - (b) in those sections, for references to “an EEA state other than the United Kingdom” there were substituted “ an EEA state ”;
 - [^{F7}(ba) in section 6A(6), after the second reference to “apply” there were inserted “by virtue of Title III of Part 2 of the withdrawal agreement (co-ordination of social security systems), Title III of Part 2 of the EEA EFTA separation agreement or social security co-ordination provisions of the Swiss citizens’ rights agreement (co-ordination of social security systems)”;
 - (bb) after section 6A(11), there were inserted—

“(12) In subsection (6), expressions which are defined in the European Union (Withdrawal Agreement) Act 2020 have the same meaning as they have in that Act.”;
 - (bc) in section 6BA(9), after “applies” there were inserted “by virtue of Title III of Part 2 of the withdrawal agreement (co-ordination of social security systems), Title III of Part 2 of the EEA EFTA separation agreement or social security co-ordination provisions of the Swiss citizens’ rights agreement (co-ordination of social security systems)”;
 - (bd) after section 6BA(15), there were inserted—

“(16) In subsection (9), expressions which are defined in the European Union (Withdrawal Agreement) Act 2020 have the same meaning as they have in that Act.”;
 - (c) in section 6D (regulations relating to EU obligations) and the heading to that section, for references to “EU obligations” there were substituted “ retained EU obligations ”;
 - (d) in section 6E(7)(b) (regulations as to exercise of functions by the Board or clinical commissioning groups), for the reference to “EU obligations” there were substituted “ retained EU obligations ”;
 - ^{F8}(e)

F7 Sch. 1 para. 1(ba)-(bd) inserted (31.12.2020 immediately before IP completion day) by [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **12(b)**

F8 Sch. 1 para. 1(e) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **12(c)**

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

Commencement Information

I16 Sch. 1 para. 1 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

Modifications to the NHS (Wales) Act

- 2. The NHS (Wales) Act is to be read as if—
 - (a) in the headings to sections 6A and 6BA (reimbursement of cost of services provided in an EEA state), for references to “another EEA state” there were substituted “an EEA state”;
 - (b) in those sections, for references to “an EEA state other than the United Kingdom” there were substituted “an EEA state”;
 - [^{F9}(ba) in section 6A(6), after the second reference to “apply” there were inserted “by virtue of Title III of Part 2 of the withdrawal agreement (co-ordination of social security systems), Title III of Part 2 of the EEA EFTA separation agreement or social security co-ordination provisions of the Swiss citizens’ rights agreement (co-ordination of social security systems)”;
 - (bb) after section 6A(11), there were inserted—
 - “(12) In subsection (6), expressions which are defined in the European Union (Withdrawal Agreement) Act 2020 have the same meaning as they have in that Act.”;
 - (bc) in section 6BA(9), after “applies” there were inserted “by virtue of Title III of Part 2 of the withdrawal agreement (co-ordination of social security systems), Title III of Part 2 of the EEA EFTA separation agreement or social security co-ordination provisions of the Swiss citizens’ rights agreement (co-ordination of social security systems)”;
 - (bd) after section 6BA(15), there were inserted—
 - “(16) In subsection (9), expressions which are defined in the European Union (Withdrawal Agreement) Act 2020 have the same meaning as they have in that Act.”;
 - ^{F10}(c)

F9 Sch. 1 para. 2(ba)-(bd) inserted (31.12.2020 immediately before IP completion day) by [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **12(d)**

F10 Sch. 1 para. 2(c) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **12(e)**

Commencement Information

I17 Sch. 1 para. 2 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

Modifications to the Health and Social Care Act 2012

- 3. The Health and Social Care Act 2012 is to be read as if—
 - (a) in section 124(9) (local modifications of prices: agreements), for “an EU obligation” there were substituted “a retained EU obligation”;
 - (b) in section 125(9) (local modifications of prices: applications), for “an EU obligation” there were substituted “a retained EU obligation”.

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

Commencement Information

I18 Sch. 1 para. 3 in force at 31.12.2020 in force on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

Modification to the Cities and Local Government Devolution Act 2016

4. The Cities and Local Government Devolution Act 2016 is to be read as if for section 18(2)(b) (devolving health service functions) there were substituted—

“(b) sections 6BA and 6BB of that Act (duties regarding the reimbursement of costs of services provided in an EEA state).”

Commencement Information

I19 Sch. 1 para. 4 in force at 31.12.2020 in force on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

PART 2

Modifications to secondary legislation

Modifications to the 2013 Regulations

5. The 2013 Regulations are to be read as if—

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

(i) in the definition of “resident patient”, for the reference to “the United Kingdom is” there were substituted “ immediately before [F11IP completion day] the United Kingdom was ”;

(ii) in the definition of “visiting patient”, for the reference to “a member State other than the United Kingdom is” there were substituted “ immediately before [F11IP completion day] a member State other than the United Kingdom was ”;

(b) in regulation 2 (national contact point: designation), for references to “must” there were substituted “ may ”;

(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 member State ”;

(e) in regulation 4(1)—

(i) before “ensure” there were inserted “make reasonable efforts to”;

(ii) for references to “other member States” there were substituted “ member States ”;

(iii) for the reference to “another member State” there were substituted “ a member State ”;

(f) regulation 4A (NCP: information about prescriptions) were omitted;

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

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

- (i) for paragraph (1) there were substituted—
 - “(1) In so far as it considers it is appropriate for the purposes of giving effect to regulation 15 of the National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019, the NCP must make reasonable efforts to co-operate with the national contact points in 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;
- (h) regulation 6 (NCP: duty to consult) were omitted;
- (i) in regulation 9(1) (information on rights and entitlements), after “must” there were inserted “ make reasonable efforts to ”;
- (j) in regulation 12(1) (information on rights and entitlements), after “must” there were inserted “ make reasonable efforts to ”;
- [^{F12}(ja) in regulation 13(2) (NHS charges), in paragraph (a) of the definition of “cross-border healthcare service”, after “visiting patient”, there were inserted “which insofar as it was provided before IP completion day was provided”];
- (k) in the heading to regulation 14 (exemption from NHS charges), for the reference to “another member State” there were substituted “ a member State ”;
- (l) in regulation 14—
 - (i) in paragraph (2), for the reference to “P is” there were substituted “ immediately before [^{F11}IP completion day] P was ”;
 - (ii) in paragraph (2)(a), for the reference to “is resident” there were substituted “ was resident ”;
 - (iii) in paragraph (2)(b), for the reference to “is the competent member State” there were substituted “ was the competent member State ”;
 - [^{F13}(iv) in paragraph (3)(b), for “it is not provided” there were substituted “insofar as the service was provided before IP completion day it was not provided”];
 - ^{F14}(v)
- [^{F15}(m) regulation 16 (review) were omitted;]
- (n) the Schedule (elements that must be included in prescriptions) were omitted.

<p>F11 Words in Sch. 1 substituted (31.12.2020 immediately before IP completion day) by The Reciprocal and Cross-Border Healthcare (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1348), regs. 1, 12(a)</p> <p>F12 Sch. 1 para. 5(ja) inserted (31.12.2020 immediately before IP completion day) by The Reciprocal and Cross-Border Healthcare (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1348), regs. 1, 12(f)</p> <p>F13 Sch. 1 para. 5(l)(iv) substituted (31.12.2020 immediately before IP completion day) by The Reciprocal and Cross-Border Healthcare (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1348), regs. 1, 12(g)</p> <p>F14 Sch. 1 para. 5(l)(v) omitted (31.12.2020 immediately before IP completion day) by virtue of The Reciprocal and Cross-Border Healthcare (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1348), regs. 1, 12(h)</p> <p>F15 Sch. 1 para. 5(m) substituted (31.12.2020 immediately before IP completion day) by The Reciprocal and Cross-Border Healthcare (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1348), regs. 1, 12(i)</p>
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Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

Commencement Information

I20 Sch. 1 para. 5 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

[^{F16}Modifications to the National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013

- 6.** The NHS Functions Regulations are to be read as if—
- (a) regulation 2(1)(a) (interpretation) were omitted;
 - (c) in regulation 3 (exercise of functions)—
 - (i) in paragraph (a), for references to “another EEA state” (in both places) there were substituted “an EEA state”;
 - (ii) paragraph (b) were omitted;
 - (c) in regulation 4 (procedure for applications)—
 - (i) after paragraph (1)(a) there were inserted “and”;
 - (ii) paragraph (1)(c) and the “and” before it were omitted;
 - (iii) in paragraph (3)(a), the words “or pursuant to Article 20 or Article 27(3)” were omitted;
 - (d) in regulation 6(2) (form and content of determination)—
 - (i) after sub-paragraph (a) there were inserted “or”;
 - (ii) sub-paragraph (c) and the “or” before it were omitted.]

F16 Sch. 1 para. 6 substituted (31.12.2020 immediately before IP completion day) by **The Reciprocal and Cross-Border Healthcare (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1348)**, **regs. 1, 12(j)**

Commencement Information

I21 Sch. 1 para. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

^{F17}SCHEDULE 2

Regulation 16

F17 Sch. 2 omitted (31.12.2020 immediately before IP completion day) by virtue of **The Reciprocal and Cross-Border Healthcare (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1348)**, **regs. 1, 11**

^{F18}SCHEDULE 3

Regulation 17

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019. (See end of Document for details)

F18 Sch. 3 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Reciprocal and Cross-Border Healthcare \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1348\)](#), regs. 1, **11**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8 of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (d), (e) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 amends primary legislation, Part 3 amends secondary legislation, Part 4 revokes retained direct EU legislation, Part 5 contains savings and transitional provisions and Part 6 relates to rights and other matters which become part of domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018.

An impact assessment has been prepared in relation to these Regulations and copies can be obtained from the Department of Health and Social Care, 39 Victoria Street, London, SW1H 0EU.

Status:

This version of this Instrument contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019.