

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively in the field of cross-border health care arising from the withdrawal of the UK from the European Union.

Regulation 4 amends the National Health Service (Scotland) Act 1978 (“the 1978 Act”) so that the arrangements for reimbursing health care costs to people ordinarily resident in Scotland who receive treatment in EEA States cease to operate on the day that the UK leaves the European Union (“exit day”), subject to two caveats. The first caveat is that reimbursement will continue to be available where the treatment was provided, or an application for its authorisation made, before exit day. The second caveat is that reimbursement will continue to be available in respect of treatment in an EEA State if that State has entered into a reciprocal arrangement with the UK.

One of the effects of regulation 4 is to remove the mechanism for reimbursing health care costs provided by section 75B of the 1978 Act. Regulation 3 preserves the law as it was before regulation 4 comes into force for live cases to which section 75B applies.

Regulation 5 amends the National Health Service (Cross-Border Health Care) (Scotland) Regulations 2013, to make provision about cross-border arrangements with EEA States.