SCHEDULE 3

Savings provision for cases arising during cross-border arrangements

PART 2

Modifications to secondary legislation

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;

"the relevant period" in relation to a member State, has the same meaning as in regulation 17 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—

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

(vi) for the definition of "visiting patient", there were substituted—

""visiting patient" means an individual for whom a relevant member State was the member State of affiliation within the meaning of Article 3(c) of the Directive during the relevant period in relation to that 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";

(**1**) Paragraph (6A) of regulation 214 is inserted by S.I. 2019/775.
(**2**) S.I. 2012/1916.

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

(g) in regulation 5(1) (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 regulation 17 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 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;

(h) regulation 6 (NCP: duty to consult) were omitted;

(i) 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.";

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

"(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.";

(k) 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)";

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

(m) 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";

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

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

(o) the Schedule (elements that must be included in prescriptions)(**3**) were omitted.

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