
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 478

**The Cross-border Health Care (EU Exit)
(Scotland) (Amendment) Regulations 2020**

Amendment of regulation 5

5. In regulation 5 (modification of the National Health Service (Cross-Border Health Care) (Scotland) Regulations 2013⁽¹⁾)—

- (a) omit paragraph (2)(a) (amendment of regulation 2 – interpretation – definition of “cross-border arrangement with an EEA State”),
- (b) for paragraph (3)(c) (amendment of regulation 4 – national contact point: information about treatment in Scotland) substitute—

“(c) after paragraph (3) insert—

“(4) In paragraph (2), “relevant person” means a person to whom health care may be, or has been, provided in Scotland as a consequence of an exercise of the person’s rights in relation to access to health care under the Directive.””

- (c) omit paragraph (5)(a) (amendment of regulation 6(1) – national contact point: cross-border co-operation),
- (d) omit paragraph (6)(a) and (b) (amendment of regulation 9 – information on rights and entitlements),
- (e) for paragraph (7)(c), (d) and (e) (amendment of regulation 10 – exemption from NHS charges for certain persons who reside in another member state) substitute—

“(c) after paragraph (3) insert—

“(3A) But a cross-border healthcare service is not within paragraph (3) insofar as it is provided after the cut-off day.

(3B) For the purpose of paragraph (3A), the cut-off day is, in a case where the service is provided as a consequence of an exercise of P’s rights under the Directive, the day falling 1 year after IP completion day.”,

- (d) in paragraph (4), after sub-paragraph (a) insert—

“(aa) “cross-border healthcare service” means healthcare that is provided to a person in Scotland as a consequence of an exercise of the person’s rights in relation to access to healthcare under the Directive,”,

- (e) after paragraph (4) insert—

“(5) The modifications made to the preceding paragraphs of this regulation by regulation 5(7) of the Cross-border Health Care (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 do not apply in relation to any service that began to be provided before IP completion day (which is the day that those modifications came into force).””

- (f) in paragraph (8), in the new regulation 10A inserted by that provision (exemption from NHS charges for certain pensioners after EU withdrawal)—
 - (i) for “exit day”, in each place where that occurs in paragraphs (2) and (3) of that regulation, substitute “IP completion day”,
 - (ii) for paragraph (4), substitute—
 - “(4) In this regulation—
“member of the family” has the meaning it had for the purposes of Regulation (EC) No 883/2004 immediately before IP completion day.”,
- (g) for paragraph (9)(b) (amendment of regulation 11 - NHS charges), substitute—
 - “(b) after paragraph (1) insert—
 - “(1A) But paragraph (1) does not apply to a cross-border healthcare service insofar as it is provided after the cut-off day.
 - (1B) For the purpose of paragraph (1A), the cut-off day in a case where the service is provided as a consequence of an exercise of the patient’s rights under the Directive, the day falling 1 year after IP completion day.””