

SCHEDULE 3

Regulation 17

Savings provision for cases arising during cross-border arrangements

PART 1

Modifications to primary legislation

Modifications to the NHS Act 2006

1. The NHS Act 2006 is to be read as if—
 - (a) sections 6A (reimbursement of cost of services provided in an EEA State) and 6B (prior authorisation for the purposes of section 6A) were omitted;
 - (b) in the heading to section 6BA (reimbursement of cost of services provided in an EEA state), for the reference to “another EEA state” there were substituted “an EEA state”;
 - (c) in section 6BA(3), for the reference to “an EEA state other than the United Kingdom” there were substituted “an EEA state”;
 - (d) for section 6BA(15) there were substituted—

“(15) In this section and section 6BB—

“authorised provider” in relation to any service provided in an EEA state means a person who is lawfully providing that service;

“NHS charge” means a charge payable under regulations made under section 172(1), 176(1) or 179(1);

“responsible authority” means, in relation to a patient, a local authority or clinical commissioning group responsible under or by virtue of this Act for providing or arranging for the provision of services for the benefit of the patient;

“service” includes any goods, including drugs, medicines and appliances, which are used or supplied in connection with the provision of a service, but does not include accommodation other than hospital accommodation.”;
 - (e) 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”;
 - (f) 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”;
 - (g) in section 183(a)(ii) (payment of travelling expenses) for the reference to “section 6A or 6BA” there were substituted “section 6BA”;
 - (h) in section 275(1) (interpretation), in the definition of “Regulation (EC) No. 883/2004” 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”.

Modifications to the NHS (Wales) Act

2. The NHS (Wales) Act is to be read as if—
 - (a) sections 6A (reimbursement of cost of services provided in an EEA State) and 6B (prior authorisation for the purposes of section 6A) were omitted;

- (b) in the heading to section 6BA (reimbursement of cost of services provided in an EEA state), for the reference to “another EEA state” there were substituted “an EEA state”;
- (c) in section 6BA(3), for the reference to “an EEA state other than the United Kingdom” there were substituted “an EEA state”;
- (d) for section 6BA(15) there were substituted—
 - “(15) In this section and section 6BB—
 - “authorised provider”, in relation to any service provided in an EEA state, means a person who is lawfully providing that service;
 - “NHS charge” means a charge payable under regulations made under section 121(1), 125(1) or 128(1);
 - “service” includes any goods, including drugs, medicines and appliances, which are used or supplied in connection with the provision of a service, but does not include accommodation other than hospital accommodation.”;
- (e) in section 131(a)(ii) (payment of travelling expenses) for the reference to “section 6A or 6BA” there were substituted “section 6BA”;
- (f) in section 206(1) (interpretation), in the definition of “Regulation (EC) No. 883/2004” 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”.

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”.

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).”.

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; “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”;

(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”;

(1) Paragraph (6A) of regulation 214 is inserted by the Human Medicines (Amendment etc.) (EU Exit) Regulations 2019.

(2) [S.I. 2012/1916](#).

- (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.

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)—
 - (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.

(3) The Schedule was inserted by [S.I. 2015/139](#).