



Health and Care Act 2022

2022 CHAPTER 31

PART 6

MISCELLANEOUS

International healthcare

162 International healthcare arrangements

- (1) The Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 is renamed the Healthcare (International Arrangements) Act 2019.
- (2) That Act is amended as follows.
- (3) Omit section 1 (power to make healthcare payments).
- (4) For section 2 substitute—

“2 Healthcare agreements and payments

- (1) The Secretary of State may by regulations make provision for the purpose of giving effect to a healthcare agreement (including provision about payments).
- (2) The Secretary of State may by regulations make provision authorising the Secretary of State to make a payment (otherwise than under a healthcare agreement) in respect of healthcare provided in a relevant country or territory, but only where the Secretary of State considers that exceptional circumstances justify the payment.
- (3) In subsection (2) “relevant country or territory” means a country or territory, outside the United Kingdom, in respect of which there is a healthcare agreement.
- (4) Regulations under this section may include provision about administrative arrangements (including provision about evidential requirements).

Status: This is the original version (as it was originally enacted).

- (5) Regulations under this section may—
- (a) confer functions on a relevant public authority or a Scottish or Welsh health board (including discretions);
 - (b) provide for the delegation of functions to a relevant public authority or a Scottish or Welsh health board.
- (6) The Secretary of State may give directions to a person about the exercise of any functions exercisable by the person under regulations made by virtue of subsection (5) (and may vary or revoke any such directions).
- (7) In this section “relevant public authority” means a person who exercises functions of a public nature other than—
- (a) the Scottish Ministers,
 - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998),
 - (c) the Welsh Ministers,
 - (d) a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006,
 - (e) a Northern Ireland department, or
 - (f) any other person whose functions—
 - (i) are exercisable only or mainly in or as regards Northern Ireland, and
 - (ii) relate only or mainly to transferred matters within the meaning of the Northern Ireland Act 1998.
- (8) In this section—
- “Scottish health board” means a Health Board established under section 2(1)(a) of the National Health Service (Scotland) Act 1978;
- “Welsh health board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

2A Healthcare agreements and payments: powers of devolved authorities

- (1) A devolved authority may by regulations make provision for the purpose of giving effect to a healthcare agreement (including provision about payments).
- (2) No provision may be made by a devolved authority under subsection (1) unless the provision is within the devolved competence of that devolved authority (and any applicable consent requirement under section 2B has been complied with).
- (3) In this section “devolved authority” means the Scottish Ministers, the Welsh Ministers or a Northern Ireland department.
- (4) For the purposes of this section—
- (a) provision is within the devolved competence of the Scottish Ministers if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) provision is within the devolved competence of the Welsh Ministers if it would be within the legislative competence of Senedd Cymru if it were contained in an Act of Senedd Cymru (including any provision that could only be made with the consent of a Minister of the Crown);

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- (c) provision is within the devolved competence of a Northern Ireland department if it would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly.
- (5) Regulations under this section may include provision about administrative arrangements (including provision about evidential requirements).
- (6) Regulations under this section may—
 - (a) confer functions on a public authority (including discretions);
 - (b) provide for the delegation of functions to a public authority.
- (7) A devolved authority may give directions to a person about the exercise of any functions exercisable by the person under regulations made by that devolved authority by virtue of subsection (6) (and may vary or revoke any such directions).
- (8) In this section “public authority” means a person who exercises functions of a public nature.

2B Regulations under section 2A: consent requirements

- (1) The consent of a Minister of the Crown is required before any provision is made by the Welsh Ministers in regulations under section 2A(1) so far as that provision, if contained in an Act of Senedd Cymru, would require the consent of a Minister of the Crown.
- (2) The consent of the Secretary of State is required before any provision is made by a Northern Ireland department in regulations under section 2A(1) so far as that provision, if contained in a Bill in the Northern Ireland Assembly, would require the consent of the Secretary of State.”
- (5) In section 3 (meaning of “healthcare” and “healthcare agreement”), for the definition of “healthcare agreement” substitute—
 - ““healthcare agreement” means an agreement or other commitment between the United Kingdom and either a country or territory outside the United Kingdom or an international organisation, concerning healthcare provided anywhere in the world;”.
- (6) In section 7 (regulations and directions)—
 - (a) in subsection (1), after “A power” insert “of the Secretary of State or Welsh Ministers”;
 - (b) after subsection (1) insert—
 - “(1A) A power of a Northern Ireland department to make regulations under section 2A is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).”;
 - (c) for subsection (4) substitute—
 - “(4) A statutory instrument containing regulations under this Act may not be made by the Secretary of State unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”;

Status: This is the original version (as it was originally enacted).

- (d) omit subsection (5);
 - (e) after subsection (5) insert—
 - “(5A) Regulations made by the Scottish Ministers under section 2A are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
 - (5B) A statutory instrument containing regulations under section 2A may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.
 - (5C) Regulations may not be made by a Northern Ireland department under section 2A unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”
- (7) In section 8 (short title etc), in subsection (3), for “Healthcare (European Economic Area and Switzerland Arrangements) Act 2019” substitute “Healthcare (International Arrangements) Act 2019”.