



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Social Security Coordination (Benefits in Kind etc) (Amendment etc) (EU Exit) Regulations 2019**

DATE **14 February 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

Social Security Coordination (Benefits in Kind etc) (Amendment etc) (EU Exit) Regulations 2019

Policy Overview of the SI

The Regulations provide for the ‘switching off’ in the UK of current EU law-based reciprocal healthcare arrangements. This will ensure that, post-EU exit, the UK will not be unilaterally committed to continue to satisfy its current obligations. However, the Regulations also provide that current reciprocal arrangements may continue until December 2020 where reciprocal agreements have been reached between the UK and other countries.

There is no policy divergence between the Welsh Government and UK Government in relation to this SI.

The retained EU law which is being amended

- Regulation (EC) 1408/71 on the application of social security schemes to employed persons and their families moving within the Community.
- Regulation (EC) 574/72 laying down the procedure for implementing Regulation 1408/71
- Regulation (EC) 883/2004 on the coordination of social security systems.
- Regulation (EC) 987/2009 laying down the procedure for implementing Regulation 883/2004
- National Health Service (Wales) Act 2006
- NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005
- Human Tissue Act 2004 (Ethical Approval, Exceptions from Licensing and Supply of Information about Transplants) Regulations 2006

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

The SI will amend section 131 of the NHS (Wales) Act 2006. This consequential amendment will remove the Welsh Ministers' powers to make regulations about the payment by the Welsh Ministers of travel expenses incurred for the purpose of obtaining services authorised to be provided in another EEA State under Articles 20 or 27 of Regulation 883/2004. This regulation-making power will be saved in relation to overseas treatment that can continue to be authorised post-exit under the saving provisions for the retained direct EU law.

The SI does not transfer any EU functions to a UK body. The only new function being conferred on the Secretary of State is that of maintaining and publishing a list of the 3rd countries with which the UK agrees a short-term bilateral agreement for the provision of reciprocal healthcare (and the entry into force and expiry dates of that agreement).

The purpose of the amendments

The purpose of the amendments is to correct deficiencies arising from the UK leaving the European Union in the retained legislation relating to reciprocal healthcare agreements. The Regulations will make corrections for reciprocity; switching off the provisions in the long term whilst putting transitional arrangements in place until December 2020 for residents of countries who have entered into an appropriate reciprocal agreement with the UK Government.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/PMq3ENDc>

Why consent was given

There is no divergence between the Welsh Government and the UK Government (Department of Health and Social Care) on the policy for the corrections. Although healthcare is devolved, the scope for Wales to implement different policy is limited by a requirement to meet any international obligations entered into by the UK. These would include international healthcare agreements. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility for patients and providers. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

A Statutory Instrument Consent Memorandum has also been laid in the National Assembly in respect of the amendments to section 131 of the NHS (Wales) Act 2006