



# Healthcare (European Economic Area and Switzerland Arrangements) Act 2019

## 2019 CHAPTER 14

An Act to make provision about paying and arranging for healthcare provided in an EEA state or Switzerland and giving effect to healthcare agreements with such countries; and for connected purposes. [26th March 2019]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Power to make healthcare payments**

The Secretary of State may make payments, and arrange for payments to be made, in respect of the cost of healthcare provided in an EEA state or Switzerland.

### **2 Healthcare and healthcare agreements**

- (1) The Secretary of State may by regulations make provision—
- (a) in relation to the exercise of the power conferred by section 1;
  - (b) for and in connection with the provision of healthcare in an EEA state or Switzerland;
  - (c) to give effect to a healthcare agreement.
- (2) Regulations under subsection (1) may only do one or more of the following things—
- (a) specify or describe levels of payments and how they are to be calculated;
  - (b) specify or describe persons in respect of whom payments and provision may be made;
  - (c) specify or describe the types of healthcare in respect of which payments and provision may be made;
  - (d) make provision about set-off arrangements between countries or territories;

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*Changes to legislation: There are currently no known outstanding effects for the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019. (See end of Document for details)*

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- (e) make provision about reimbursement levels (which may include caps);
  - (f) specify or describe evidential or administrative requirements or processes;
  - (g) make provision about appeals;
  - (h) confer functions (including conferring a discretion);
  - (i) provide for the delegation of functions.
- (3) But regulations under subsection (1) may not confer functions on, or provide for the delegation of functions to, a person who is not a public authority.
- (4) The Secretary of State may give directions to a person about the exercise of any functions exercisable by the person by virtue of regulations under subsection (1).
- (5) The Secretary of State may vary or revoke directions given under subsection (4).
- (6) In this section “public authority” means a person who exercises functions of a public nature (but does not include a person who does so only because of exercising functions on behalf of another).
- (7) No regulations may be made under subsection (1)(a) or (b) after the end of the period of five years beginning with exit day.

### 3 Meaning of “healthcare” and “healthcare agreement”

In this Act—

“healthcare” means all forms of healthcare provided for individuals, whether relating to mental or physical health, and includes related ancillary care;

“healthcare agreement” means an agreement made between the government of the United Kingdom and either the government of an EEA state or Switzerland or an international organisation, concerning either or both of the following—

- (a) healthcare provided in an EEA state or Switzerland, payments in respect of which may be made by the government of the United Kingdom;
- (b) healthcare provided in the United Kingdom, payments in respect of which may be made by an EEA state or Switzerland;

“international organisation” means an organisation of which—

- (a) two or more sovereign powers are members, or
- (b) the governments of two or more sovereign powers are members.

### 4 Data processing

- (1) An authorised person may process personal data held by the person in connection with any of the person's functions where that person considers it necessary for the purposes of implementing, operating or facilitating the doing of anything under or by virtue of this Act.
- (2) The processing of personal data in accordance with subsection (1) does not breach—
- (a) any obligation of confidence owed by the person processing the personal data, or
  - (b) any other restriction on the processing of personal data (however imposed).
- (3) But nothing in subsection (1) authorises the processing of personal data which—
- (a) contravenes the data protection legislation, or

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- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (4) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (3)(b) has effect as if it included a reference to that Part.
- (5) Subsection (1) does not limit the circumstances in which personal data may be processed apart from this section.
- (6) In this section—
  - “authorised person” means—
    - (a) the Secretary of State, the Treasury, the Commissioners for Her Majesty's Revenue and Customs, the Scottish Ministers, the Welsh Ministers and a Northern Ireland department;
    - (b) an NHS body (as defined in section 275 of the National Health Service Act 2006 or in section 206 of the National Health Service (Wales) Act 2006);
    - (c) a health service body listed in section 17A(2)(a) to (e) of the National Health Service (Scotland) Act 1978 or in article 8(2)(a) to (e) of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.R. & O. (N.I.) 1991 No. 194);
    - (d) a provider of healthcare (not falling within paragraph (b) or (c));
    - (e) any other person authorised, or falling within a description of persons authorised, by regulations made by the Secretary of State for the purposes of this section;
  - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
  - “personal data” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

## **5 Requirement for consultation with devolved authorities**

- (1) Before making regulations under section 2 that contain provision which is within the legislative competence of a devolved legislature, the Secretary of State must consult the relevant devolved authority on that provision.
- (2) In this section—
  - “devolved authority” means the Scottish Ministers, the Welsh Ministers or a Northern Ireland department;
  - “devolved legislature” means the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.
- (3) A provision is within the legislative competence of a devolved legislature if—
  - (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of the Scottish Parliament;
  - (b) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (including any provision that could only be made with the consent of a Minister of the Crown); or
  - (c) the provision, if it were contained in an Act of the Northern Ireland Assembly—
    - (i) would be within the legislative competence of the Assembly, and