Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Health Services (Cross-Border Health Care) Regulations (Northern Ireland) 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2013 No. 299

HEALTH AND PERSONAL SOCIAL SERVICES

The Health Services (Cross-Border Health Care) Regulations (Northern Ireland) 2013

Made - - - -	*19th December 2013*
Coming into operation-	*27th December 2013*

The Department of Health, Social Services and Public Safety [F1], makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F2].

The Department of Health, Social Services and Public Safety is a Department designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to cross-border health care [F3].

F1 Formerly the Department of Health and Social Services; See S.I. 1999/283 (N.I. 1) Article 3(6)

F2 1972 c.68. By virtue of the amendment to section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c.51), regulations may be made under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created or arising by or under the EEA Agreement. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), **section 27(1)** and by the European Union (Amendment) Act 2008 (c.7), **section 3(3)** and Part 1 of the Schedule

F3 S.I. 2009/2743

PART 1

INTRODUCTORY

Citation and commencement

1.—(1) These Regulations may be cited as The Health Services (Cross-Border Health Care) Regulations (Northern Ireland) 2013 and come into operation on 27th December 2013.

Interpretation

2.—(1) In these Regulations—

"the Order of 1972" means the Health and Personal Social Services (Northern Ireland) Order 1972 [F4];

"the 2009 Act" means the Health and Social Care (Reform) Act (Northern Ireland) 2009 [F5];

"the Board" means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

"the Department" means the Department of Health, Social Services and Public Safety;

"the Directive" means Directive 2011/24/EU of the European Parliament and of the Council of 9th March 2011 on the application of patients' rights in cross-border healthcare [F6];

"health care" means health services provided by health professionals to patients to assess, maintain or restore their state of health, and includes the prescription, dispensing and provision of medicinal products and medical devices;

"health care provider" means a person providing health care on the territory of a member State;

"health professional" means a person other than a social worker who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 [F7], (the Professional Standards Authority for Health and Social Care);

"medical device" means any instrument, apparatus, appliance, material or other article, whether used alone or in combination, including the software necessary for its proper application, intended by the manufacturer to be used for human beings for the purpose of—

(a) the diagnosis, prevention, monitoring treatment or alleviation of disease;

(b) the diagnosis, monitoring, treatment, alleviation or compensation for an injury or handicap;

(c) the investigation, replacement or modification of the anatomy or of a physiological process; or

(d) the control of conception,

and which does not achieve its principal intended action in or on the human body by pharmacological, immunological or metabolic means, but which may be assisted in its function by such means;

"medicinal product" means any substance or combination of substances—

(a) presented as having properties of preventing or treating disease in human beings; or;

(b) which may be used by or administered to human beings with a view to making a medical diagnosis or to restoring, correcting or modifying a physiological function by exerting a pharmacological, immunological or metabolic action;

"NCP" means the National Contact Point designated under regulation 3(1);

"prescription" means a prescription for a medicinal product or for a medical device issued by a member of a regulated health profession within the meaning of Article 3(1)(a) of Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications [F8] who is legally entitled to do so in the member State in which the prescription is issued;

"resident patient" means an individual for whom the United Kingdom is the member State of affiliation within the meaning of Article 3(c) of the Directive (definitions);

"visiting patient" means an individual for whom a member State other than the United Kingdom is the Member State of affiliation within the meaning of Article 3(c) of the Directive.

(2) The Interpretation Act (Northern Ireland) 1954 [F9] applies to these Regulations as it applies to an Act of the Assembly.

F4 S.I. 1972/1265 (N.I. 14)
F5 2009 c.1 (N.I.)
F6 OJ No. L88, 4.4.2011, p45.
F7 2002 c.17. Section 25 has been amended by the Health and Social Care Act 2008 (c.14), section 113, **Schedule 10**, paragraph 17 and Schedule 15, Part 2; and by S.I. 2010/231 and the Health and Social Care Act 2012 (c.7), **sections 220** and 224.
F8 OJ No. L255, 30.9.2005, p.22; corrigenda to the Directive published in OJ No.L271, 16.10.2007, p18; and in OJ No. L 93, 4.4.2008, p.28.
F9 1954 c. 33 (N.I.)

PART 2

NATIONAL CONTACT POINT

National Contact Point: designation

3.—(1) The Department must, in relation to Northern Ireland, designate a suitable person or body to be the National Contact Point for the purposes of the Directive.

(2) The Department must, in relation to Northern Ireland, publish the identity and contact details of the NCP.

National Contact Point: information about treatment in Northern Ireland

4.—(1) The NCP must, in so far as it considers it is necessary or desirable for the purposes of enabling visiting patients to exercise their rights in relation to access to health care in Northern Ireland, ensure that information about each of the following is available to or accessible by visiting patients—

(a) health care providers;

(b) patients' rights;

(c) complaints procedures and methods of seeking remedies; and

(d) legal and administrative options available to settle disputes, including in the event of harm arising from the provision of health care.

(2) The NCP must also, in so far as it considers it necessary or desirable for the purposes mentioned in paragraph (1), ensure that information about each of the following is made available to a visiting patient, on request—

(a) a specific health care provider's right to provide services;

(b) any restrictions on a specific health care provider's right to provide services;

(c) standards and guidelines on quality and safety;

(d) provisions on the supervision and assessment of health care providers;

(e) health care providers who are subject to the standards mentioned in sub-paragraph (c); and

(f) accessibility of hospitals for persons with disabilities.

(3) Information provided under this regulation may be provided by whatever means the NCP thinks appropriate but must be—

(a) easily accessible, and

(b) available by electronic means.

National Contact Point: information about treatment in another member State

5.—(1) The NCP must, in so far as it considers it is necessary or desirable for the purposes of enabling resident patients to exercise their rights in relation to access to health care in other member States, ensure that information about each of the following is available to or accessible by resident patients and health professionals—

(a) the rights and entitlements of resident patients to receive health care in another member State;

(b) the procedures for accessing and determining those rights and entitlements;

(c) the procedures for appeal and redress if patients consider that their rights have not been respected;

(d) the terms and conditions for reimbursement of costs; and

(e) the contact details of NCPs in other member States (designated as such for the purposes of the Directive).

(2) Information provided under this regulation may be provided by whatever means the NCP thinks appropriate but must be—

(a) easily accessible, and

(b) available by electronic means.

[F10National Contact Point: information about prescriptions intended to be used in another member State

5A.—(1) The NCP must make available to patients information about the elements, specified in the Schedule, to be included in a prescription which is—

(a) issued in one member State, and

(b) intended to be used in another member State.**]**

F10 Reg. 5A inserted (27.3.2015) by The Health Services (Cross-Border Health Care) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/130), regs. 1, **2(2)**

National Contact Point: cross-border co-operation

6.—(1) In so far as it considers it is appropriate for the purposes of giving effect to the Directive, the NCP must co-operate with—

(a) the NCPs in other member States;

(b) the NCPs established for the purposes of the Directive in England, Wales and Scotland; and

(c) the Commission of the European Union.

(2) In particular, that co-operation must include —

(a) co-operating on standards and guidelines on quality and safety;

(b) facilitating the exchange of information mentioned in regulation 4(1) and (2); and

(c) co-operating on the clarification of the content of invoices.

National Contact Point: duty to consult

7. In so far as it considers it is appropriate for the purposes of giving effect to the Directive (including giving effect to the measures implementing the Directive in these Regulations), the NCP must consult with—

(a) such organisations representing the interests of patients as it considers appropriate;

(b) such health care providers or organisations representing health care providers as it considers appropriate; and

(c) such persons providing insurance in relation to health care or organisations representing such persons as it considers appropriate.

PART 3

TREATMENT IN ANOTHER MEMBER STATE

Reimbursement of the cost of health care services

8.—(1) In Article 14B of the Order of 1972 (reimbursement of the cost of health care services secured in another EEA state) [F11],—

(a) in the title, at the end, add " where expenditure was incurred on or after 10th May 2012 but before 27th December 2013 ".

(b) after paragraph (1) insert—

"(1A) But the duty in paragraph (1) does not apply where Article 14D applies (qualifying EEA expenditure incurred on or after 27th December 2013).".

(2) After Article 14C of that Order (prior authorisation for the purposes of Article 14B(3)(b) or (c) [F12], insert—

"**Reimbursement of the cost of health services secured in another EEA state where expenditure occurred on or after 27th December 2013**

14D.—(1) This Article applies where qualifying EEA expenditure is incurred by or on behalf of an eligible person on or after 27th December 2013 (but see paragraphs (9) and (14)).

(2) The Department must, on an application being made by or on behalf of an eligible person, reimburse the amount of the qualifying EEA expenditure incurred by or on behalf of the person.

(3) The duty under paragraph (2) is subject to—

(a) the exceptions in paragraphs (8) and (9);

(b) any limit applicable under paragraph (11);

(c) any deduction applicable under paragraph (12).

(4) For the purpose of this Article, "qualifying EEA expenditure" is expenditure incurred on the provision, by an authorised provider, in an EEA state other than the United Kingdom, of a service as respects which Condition A or B is met.

(5) Condition A is that—

(a) the service was necessary to treat or diagnose a medical condition of the eligible person;

(b) the service is the same as or equivalent to a service that the Department would make or have made available to the eligible person under this Order or the 2009 Act in the circumstances of the person's case; and

(c) where it falls within paragraph (6), the Department had given authorisation under Article 14E(4)(a) for the provision of the service to the eligible person before the service was provided.