

UK MINISTERS ACTING IN DEVOLVED AREAS

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

Laid in the UK Parliament: 11 February 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	NA
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	NA
Date sifting period ends in UK Parliament	NA
Written statement under SO 30C:	Paper 22
SICM under SO 30A (because amends primary legislation)	Paper 23

Scrutiny procedure

Outcome of sifting	NA
Procedure	Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	25 February 2019

Commentary

The written statement, and accompanying documentation, has an incorrect title. The written statement relates to The Social Security Coordination (Reciprocal Healthcare) (Amendment etc) (EU Exit) Regulations 2019. This has been raised with the Welsh Government.

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

EU Member States currently have reciprocal arrangements under which healthcare is available to each others' citizens wherever those citizens access healthcare throughout the EU. In the event of the UK leaving the European Union without a deal, these arrangements will no longer apply to EU citizens in the UK (or vice versa).

The Regulations will remove redundant references in UK law which will no longer be relevant once the UK leaves the European Union. They will also allow the UK to provide transitional protection to EU citizens until 31 December 2020. This will apply to citizens of those EU member states with which the UK Government has agreed a reciprocal arrangement for each others' citizens.

The Regulations amend the following EU instruments-

Regulation (EC) 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems;

Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems;

Council Regulation (EEC) No 1408/713 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community; and

Council Regulation (EEC) No 574/724 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community.

They also amend-

The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005;

The Human Tissue Act 2004 (Ethical Approval, Exceptions from Licensing and Supply of Information about Transplants) Regulations 2006; and

The National Health Service (Wales) Act 2006.

As regards the latter, an amendment to section 131 will remove the power of the Welsh Ministers to make Regulations to reimburse travel costs for EU citizens (or for citizens of the EEA or Switzerland) where those costs were incurred for the purpose of accessing healthcare in Wales.

Legal Advisers agree with the statement laid by the Welsh Government dated 14 February 2019 regarding the effect of these Regulations.

The statement refers to the Statutory Instrument Consent Memorandum laid in respect of amendments to the National Health Service (Wales) Act

2006. The Welsh Government has indicated that it does not propose to table a motion to seek a debate under Standing Order 30A.10.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect and the extent to which these Regulations would enact new policy in devolved areas. Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Members may wish to consider whether to table a consent motion in accordance with Standing Order 30A.10 in respect of these Regulations, given that the Welsh Government does not intend to do so.