

2021 No. WG21-15

**THE NATIONAL HEALTH
SERVICE (WALES) ACT 2006**

**The National Health Service
(Cross-Border Healthcare) (Wales)
(Amendment) Directions 2021**

Made 25 March 2021

*Coming into force in accordance with
direction 1(2)*

The Welsh Ministers give the following Directions in exercise of the powers conferred by sections 12(3), 203(9) and (10) and 204(1) of the National Health Service (Wales) Act 2006⁽¹⁾.

Title, commencement, application and interpretation

1.—(1) The title of these Directions is the National Health Service (Cross-Border Healthcare) (Wales) (Amendment) Directions 2021.

(2) These Directions come into force from implementation period completion day 2021.

(3) These Directions are given to Local Health Boards and apply in relation to Wales.

(4) In these Directions—

“the NHS Act” means the National Health Service (Wales) Act 2006;

“the Cross-Border Directions” means the National Health Service (Cross-Border Healthcare) (Wales) Directions 2013⁽²⁾.

(1) 2006 c. 42.

(2) 2013 No. 26. The Directions were made on 25 October 2013 and are available at <https://gov.wales/sites/default/files/publications/2019-07/national-health-service-cross-border-healthcare-wales-directions-2013-2013-no-26.pdf>.

Savings and transitional provision relating to the Cross-Border Directions

2. The Cross-Border Directions are to continue to apply with the modifications made by the Schedule, to the provision of information to, and consideration of applications made by, patients in relation to whom any of the following continue to apply by virtue of regulation 15 of the National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 (cross-border cases arising before implementation period completion day)(1)—

- (a) section 6A or 6B of the NHS Act (reimbursement of costs of services provided in an EEA state and prior authorisation)(2);
- (b) section 6BA or 6BB of the NHS Act (reimbursement of cost of services provided in an EEA state where expenditure incurred on or after 25 October 2013 and prior authorisation)(3);
- (c) the National Health Service (Cross-Border Healthcare) Regulations 2013(4).

Name,

Sioned Rees, Deputy Director, Welsh Government,
under the authority of the Minister for Health and
Social Services, one of the Welsh Ministers

Date: 25 March 2021

(1) S.I. 2019/777 as amended by S.I. 2020/1348.
(2) Sections 6A and 6B were inserted by S.I. 2010/915 and omitted by S.I. 2019/777, subject to savings and transitional provision.
(3) Sections 6BA and 6BB were inserted by S.I. 2013/2269 and omitted by S.I. 2019/777, subject to savings and transitional provision.
(4) S.I. 2013/2269; as amended by S.I. 2015/139 and S.I. 2015/238 and revoked by S.I. 2019/777, subject to savings and transitional provision.

Cross-border cases arising before
implementation period completion day

1. The Cross-Border Directions are to be read as if—

- (a) for direction 1(3) (application, commencement and interpretation) there were substituted—

“(3) These Directions apply to the provision of information to, and consideration of applications made in the exercise of the rights and entitlements mentioned in the Directive, by resident patients in relation to whom any of the following continue to apply by virtue of regulation 15 of the National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019—

- (a) section 6A or 6B the National Health Service (Wales) Act 2006 (reimbursement of costs of services provided in an EEA state and prior authorisation);

- (b) section 6BA or 6BB of the National Health Service Act 2006 (reimbursement of cost of services provided in an EEA state and prior authorisation);

- (c) the National Health Service (Cross-Border Healthcare) Regulations 2013.”;

- (b) in direction 1(4) (application, commencement and interpretation)—

- (i) in the appropriate place there were inserted—

““the Cross-Border Exit Regulations” means the National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019(1);”;

- (ii) in the definition of “the Cross-Border Healthcare Regulations”, at the end there were inserted “as continued by regulation 15 of the Cross-Border Exit Regulations”;

- (iii) in the definition of “Regulation (EC) No 883/2004”, at the end there were inserted “insofar as it applies by virtue of Title III of Part 2 of the withdrawal agreement (co-ordination of social security systems), Title III of Part 2 of the EEA EFTA separation agreement or the social security co-ordination provisions of the

(1) S.I. 2019/777 as amended by S.I. 2020/1348.

- Swiss citizens’ rights agreement (co-ordination of social security systems)”;
- (iv) in the definition of “resident patient”, for the reference to “the United Kingdom is” there were substituted “immediately before implementation period completion day the United Kingdom was”;
- (c) after direction 1(4) there were inserted—
- “(5) In these Directions, a reference to section 6A, 6B, 6BA or 6BB of the NHS (Wales) Act is a reference to that section as continued by regulation 15 of the Cross-Border Exit Regulations.”;
- (d) in the heading to direction 4 (duty to publish information about healthcare services subject to prior authorisation), for “Duty to publish information” there were substituted “Information”;
- (e) in direction 4(1) (duty to publish information about healthcare services subject to prior authorisation)—
- (i) after “each Local Health Board must” there were inserted “make reasonable efforts to”;
- (ii) for “another EEA state” there were substituted “an EEA state”;
- (f) in the heading to direction 5, for “Duty to publish information” there were substituted “Information”;
- (g) in direction 5(1), after “each Local Health Board must” there were inserted “make reasonable efforts to”;
- (h) in the heading to direction 6, for “duty to provide” there were substituted “duty as to provision of”;
- (i) in direction 6 (Local Health Boards’ duty to provide information and advice and assistance to patients)—
- (i) in paragraph (1), after “each Local Health Board must” there were inserted “make reasonable efforts to”;
- (ii) in paragraph (2), after “entitlements” there were inserted “as” and the words from “for the purpose of” to the end were omitted;
- (iii) in paragraph (3)—
- (aa) after “The Local Health Board must” there were inserted “make reasonable efforts to”;
- (bb) for “in any event” there were substituted “, so far as possible,”.