

2019-10 **Healthcare (International Agreements) and
Social Security Coordination**

Subsidiary Legislation made under ss.5 & 7.

**Healthcare (European Economic Area and Switzerland
Arrangements) (EU Exit) Regulations 2020**

LN.2020/554

Commencement

1.1.2021

ARRANGEMENT OF REGULATIONS.

Regulation

1. Title.
2. Commencement.
3. Interpretation.
4. Functions relating to healthcare payments and assisting the Minister.
5. Functions relating to healthcare arrangements.
6. Public information and advice.
7. Functions relating to authorisation for planned healthcare.
8. Duty to act in accordance with healthcare arrangements.
9. List of healthcare arrangements.
10. Transitional provision.

2019-10 Healthcare (International Agreements) and
Social Security Coordination

2020/554 Healthcare (European Economic Area and Switzerland
Arrangements) (EU Exit) Regulations 2020

In exercise of the powers conferred by sections 5 and 7 of the Healthcare (International Agreements) and Social Security Coordination Act 2019 the Minister has made the following Regulations-

Title.

1. These Regulations may be cited as the Healthcare (European Economic Area and Switzerland Arrangements) (EU Exit) Regulations 2020.

Commencement.

2. These Regulations come into operation on 1 January 2021.

Interpretation-

3. In these Regulations-

“Authority” means the Gibraltar Health Authority established under the Gibraltar Health Authority Act;

“enactment” includes-

- (a) an enactment comprised in, or in an instrument made under, primary legislation; and
- (b) any retained direct EU legislation;

“healthcare arrangement” means-

- (a) a healthcare agreement; or
- (b) an arrangement, other than a healthcare agreement, made by the Government, for or in connection with the provision of healthcare in a Member State;

“listed healthcare arrangement” means a healthcare arrangement included in the list maintained in accordance with regulation 9;

“maternity application” means an application for authorisation to travel to a Member State (or another Member State) for the purpose of receiving healthcare in connection with giving birth in that Member State;

Healthcare (International Agreements) and
Social Security Coordination

2019-10

Healthcare (European Economic Area and Switzerland
Arrangements) (EU Exit) Regulations 2020

2020/554

“Member State” means an EEA state or Switzerland;

“relevant person” means a person residing in a Member State needing authorisation from Gibraltar to travel to a Member State for the purpose of receiving healthcare under a healthcare arrangement.

Functions relating to healthcare payments and assisting the Minister.

4. Subject to, and in accordance with, such instructions as the Minister may give, the Authority must-

- (a) make payments under section 4 of the Healthcare (International Agreements) and Social Security Coordination Act 2019 (power to make healthcare payments); and
- (b) assist the Minister in relation to the Minister’s exercise of-
 - (i) functions under that section;
 - (ii) functions in giving effect to healthcare arrangements; and
 - (iii) functions otherwise in connection with the provision of healthcare in a Member state.

Functions relating to healthcare arrangements.

5.(1) The Authority must give effect to Gibraltar’s obligations and commitments under any listed healthcare arrangements.

(2) The duty in subregulation (1) includes (but is not limited to) doing the following in accordance with any listed healthcare arrangements-

- (a) processing and determining any applications or claims, including any maternity applications;
- (b) registering any entitlements;
- (c) making any payments; and

2019-10 Healthcare (International Agreements) and
Social Security Coordination

2020/554 Healthcare (European Economic Area and Switzerland
Arrangements) (EU Exit) Regulations 2020

(d) issuing any documents verifying entitlement to the provision of healthcare.

(3) But the duty in subregulation (1) does not include a duty to give effect to Gibraltar's obligations and commitments under a listed healthcare arrangement to the extent that the Minister or another person is under a duty to give, is due to give, or has given, effect to those obligations or commitments.

(4) The Minister may give effect to any listed healthcare arrangements, and that power includes (but is not limited to) a power to do the things mentioned in subregulation (2)(a) to (d).

Public information and advice.

6. The Authority may, in such manner as the Authority deems appropriate, or where the Minister directs in accordance with such direction, make available to the public information and advice in relation to-

- (a) its functions under these Regulations;
- (b) the provision of healthcare under healthcare arrangements; and
- (c) any evidential or administrative requirements or processes under those arrangements,

and may include information and advice in relation to such other matters relating to healthcare arrangements or in connection with the provision of healthcare in a Member State.

Functions relating to authorisation for planned healthcare.

7.(1) The Authority must determine planned healthcare applications, and must do so in accordance with any listed healthcare arrangements.

(2) But the duty in subregulation (1) does not include a duty to determine a planned healthcare application to the extent that the application is a maternity application.

(3) In this regulation, "planned healthcare application" means an application for authorisation to travel to a Member State for the purpose of receiving healthcare under a listed healthcare arrangement.

Duty to act in accordance with healthcare arrangements.

Healthcare (International Agreements) and
Social Security Coordination

2019-10

Healthcare (European Economic Area and Switzerland
Arrangements) (EU Exit) Regulations 2020

2020/554

8. The Authority must, when exercising functions and insofar as not already required by regulation 5 or 7, act in accordance with any listed healthcare arrangements.

List of healthcare arrangements.

9.(1) The Minister must maintain a list for the purposes of regulations 5 to 8 and 10.

(2) The list must specify in relation to each healthcare arrangement included in the list-

(a) when the healthcare arrangement is to be treated as beginning to have effect; and

(b) when the healthcare arrangement is to be treated as ceasing to have effect.

(3) The Minister may specify different times under subregulation (2)(a) or (b) in relation to different parts of a healthcare arrangement.

(4) The Minister may remove a healthcare arrangement from the list before the time specified in the list as the time when the arrangement is to be treated as beginning to have effect.

(5) The Minister may change a time specified in the list (but not after the time specified).

(6) The Minister must make the list accessible to the public.

Transitional provision.

10.(1) This subregulation applies where a listed healthcare arrangement makes provision as to rights, obligations or liabilities acquired, accrued or incurred under the arrangement before the arrangement end time.

(2) Where subregulation (1) applies, the Authority must after the arrangement end time give effect to the provision referred to in that subregulation.

(3) This subregulation applies where-

(a) subregulation (1) does not apply; and

(b) before the arrangement end time of a listed healthcare arrangement, under the arrangement-

2019-10 Healthcare (International Agreements) and
Social Security Coordination

2020/554 Healthcare (European Economic Area and Switzerland
Arrangements) (EU Exit) Regulations 2020

- (i) healthcare was provided, or began to be provided,
- (ii) authorisation for the provision of healthcare was given, or
- (iii) an application for authorisation to travel to a Member State (or another Member State) for the purpose of receiving healthcare was made and such authorisation was not given or refused.

(4) Where subregulation (3) applies, the Authority must after the arrangement end time treat Gibraltar's obligations and commitments under the healthcare arrangement as continuing to apply in relation to the matters referred to in subregulation (3)(b)(i) to (iii).

(5) Nothing in subregulation (4) requires-

- (a) healthcare to be provided in Gibraltar after the later of-
 - (i) the end of the period of one year beginning with the day after the arrangement end time, or
 - (ii) in a case where authorisation under a listed healthcare arrangement has been given for the provision of healthcare in Gibraltar within a specified period, the end of the specified period; or
- (b) reimbursement to be made to a Member State or a person in respect of healthcare provided after the later of-
 - (i) the end of the period of one year beginning with the day after the arrangement end time, or
 - (ii) in a case where authorisation under a listed healthcare arrangement has been given to travel to a Member State (or another Member State) for the purpose of receiving healthcare within a specified period, the end of the specified period.

(6) In this regulation "the arrangement end time" means, in relation to a listed healthcare arrangement, the time when the arrangement is treated as ceasing to have effect in accordance with regulation 9(2)(b).