

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT SOCIAL SECURITY COORDINATION
(RECIPROCAL HEALTHCARE) (AMENDMENT
ETC) (EU EXIT) REGULATIONS 2019

DRAFT NATIONAL HEALTH SERVICE
(CROSS-BORDER HEALTHCARE AND
MISCELLANEOUS AMENDMENTS ETC.)
(EU EXIT) REGULATIONS 2019

DRAFT HEALTH SERVICES (CROSS-BORDER
HEALTH CARE AND MISCELLANEOUS
AMENDMENTS) (NORTHERN IRELAND)
(EU EXIT) REGULATIONS 2019

Monday 25 March 2019

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The Committee consisted of the following Members:

Chair: SIR DAVID AMESS

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| † Badenoch, Mrs Kemi (<i>Saffron Walden</i>) (Con) | † Norris, Alex (<i>Nottingham North</i>) (Lab/Co-op) |
| † Cooper, Rosie (<i>West Lancashire</i>) (Lab) | † O'Brien, Neil (<i>Harborough</i>) (Con) |
| † Courts, Robert (<i>Witney</i>) (Con) | † Sheerman, Mr Barry (<i>Huddersfield</i>) (Lab/Co-op) |
| † Coyle, Neil (<i>Bermondsey and Old Southwark</i>) (Lab) | † Sherriff, Paula (<i>Dewsbury</i>) (Lab) |
| † Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op) | † Throup, Maggie (<i>Erewash</i>) (Con) |
| † Day, Martyn (<i>Linlithgow and East Falkirk</i>) (SNP) | † Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con) |
| † Elmore, Chris (<i>Ogmore</i>) (Lab) | |
| † Graham, Richard (<i>Gloucester</i>) (Con) | Ian Bradshaw, <i>Committee Clerk</i> |
| † Hammond, Stephen (<i>Minister for Health</i>) | |
| † Jones, Mr Marcus (<i>Nuneaton</i>) (Con) | |
| † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) | † attended the Committee |

Seventh Delegated Legislation Committee

Monday 25 March 2019

[SIR DAVID AMESS *in the Chair*]

Draft Social Security Coordination (Reciprocal Healthcare) (Amendment etc) (EU Exit) Regulations 2019

6 pm

The Chair: Is it the wish of the Committee that the instruments be debated together?

Hon. Members: Aye.

The Chair: The instruments will be debated together.

The Minister for Health (Stephen Hammond): I beg to move,

That the Committee has considered the draft Social Security Coordination (Reciprocal Healthcare) (Amendment etc) (EU Exit) Regulations 2019.

The Chair: With this it will be convenient to consider the draft National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 and the draft Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019.

Stephen Hammond: It is a great pleasure to serve under your chairmanship, Sir David. I am grateful to the Committee for agreeing to discuss these regulations together, which seems logical to me. I welcome the hon. Member for Dewsbury, who is debating with me. I want to put on record at the start that the hon. Member for Ellesmere Port and Neston (Justin Madders), who is no longer on the Labour Front Bench, conducted himself in a helpful and constructive way in this particular part of our discussions about EU exit, which is about reciprocal healthcare and the good of all our constituents.

I would also like to put on record my thanks to the Scottish Government and the Welsh Assembly, and the Labour Government there, for their help with the Healthcare (International Arrangements) Bill, on which we have had legislative consent motions. That is a record, because it is the only piece of EU exit legislation to which we have a legislative consent motion. It will mean, hopefully, that some of the things that we are discussing tonight will be easier to implement when that Bill comes through, either tomorrow or some other time.

Mr Barry Sheerman (Huddersfield) (Lab/Co-op): Will the Minister give way?

Stephen Hammond: I have hardly got started, but of course I will give way.

Mr Sheerman: Before the Minister gets into full flow, I would like to say that I have been to lots of these Committees—I do not know if someone up there loves me or the Whips have a grudge—but I have never come across one that is such a rag-bag of things. As a Member of Parliament, I am supposed to give parliamentary scrutiny to this whole rag-bag of very important pieces of delegated legislation. Is that just because the Minister is in a hurry? This disaster of Brexit is coming and we are throwing everything at it. Up until now, we have had one statutory instrument, debated it in some detail and, by and large, felt that we have led some accountability. This looks like a total mess. How can we do our job properly with this large number of documents in front of us?

Stephen Hammond: The hon. Gentleman has been in the House much longer than I have. He will know that it is not unusual to have statutory instruments grouped together. In fact, last week a number of SIs from the Department for Environment, Food and Rural Affairs were grouped together and discussed on the Floor of the House, and then voted on individually.

The rationale for this evening's grouping is simple: they are all to do with reciprocal healthcare, ensuring that our citizens—in either a deal or, particularly, a no-deal situation—have the potential to have the rights that they currently enjoy, which is the Government's aim. That is why I have asked for them to be grouped together. I am grateful to the Committee for allowing that. Had the hon. Gentleman chosen to do so, we could have discussed them individually. If he allows me the time to progress with my speech, I hope he will see the logic of why we have grouped them this evening.

Stella Creasy (Walthamstow) (Lab/Co-op): I have a slightly different question for the Minister. He just spoke about his gratitude to the Scottish Parliament and the Welsh Assembly Government for their work on the legislative consent motions that these statutory instruments require. I note that in the explanatory memorandum it says that consent has also been sought from Northern Ireland. For the record, I would like the process by which consent has been sought from Northern Ireland on the measures to be set out.

Stephen Hammond: If the hon. Lady will allow me, I will tackle that in my speech. I will set out the arrangements that are in place with the Northern Ireland Executive, and if she is then not happy I will try to answer any questions at the end.

Mr Sheerman: I have to explain this accountability and scrutiny work I am doing to my constituents, so before the Minister sets sail—I wish him a really nice journey, with no problems—will he be putting the SIs into layman's language, carefully going through them and saying what they really mean in the sort of language his constituents, along with mine and yours, Sir David, could understand?

Stephen Hammond: The hon. Gentleman can only test that and prove whether he has done his work on accountability after he has heard what I have to say, so I hope he will allow me to say it. I read this speech last

week and it went back for re-writing, so I hope that it is now in the sort of language that both he and I and, importantly, our constituents will be able to understand.

Michael Tomlinson (Mid Dorset and North Poole) (Con): Let's hear it.

Stephen Hammond: Here we go.

The Government are introducing these three statutory instruments under section 8 of the European Union (Withdrawal) Act 2018, to correct deficiencies in retained EU law relating to reciprocal and cross-border healthcare, and to ensure that the law is operable on exit day. When the UK leaves the EU, that Act will automatically retain the relevant EU legislation and the domestic implementing legislation in UK law. In a no-deal scenario, however, if we did not legislate further, the regulations would be incoherent and unworkable without reciprocity from member states. There would be a lack of clarity about patients' rights to UK-funded healthcare in EU and European Free Trade Association countries.

Current EU reciprocal healthcare arrangements enable people to access healthcare when they live, study, work or travel in EU and EFTA countries, and in the UK. They give people retiring abroad more security, they support tourism and business, and they facilitate healthcare co-operation. The Government intend to continue those reciprocal and cross-border healthcare arrangements, as they are now, in any exit scenario until at least December 2020.

In a deal scenario, the in principle agreement we have reached with the EU under the withdrawal agreement is that during the implementation period—until 31 December 2020—all reciprocal and cross-border healthcare entitlements will continue. There will be no changes to healthcare for UK pensioners, workers, students, tourists and other visitors, and the European health insurance card scheme and planned treatment will continue. That would all be legislated for in the European Union (Withdrawal Agreement) Bill. The Government want to secure a wider reciprocal healthcare agreement with EU and EFTA states following the end of the implementation period, which will support a broad range of people. We will negotiate that with our European partners during phase 2 of the talks on our future relationship.

In a no-deal scenario, our proposal to all EU and EFTA countries is to maintain the current reciprocal healthcare arrangements for at least a transitional period lasting until December 2020, to ensure that UK nationals can continue to access affordable healthcare when in the EU.

Mr Sheerman: When we get our EHIC card and go across to anywhere in Europe, we are sure that if we need medical attention it is covered by those reciprocal agreements. Is the Minister saying that for a short transitional period the continuity of that process will be maintained but that it will all end when we leave the European Union?

Stephen Hammond: No, that is not at all what I am saying. I am sure that the hon. Gentleman was listening carefully. I was saying that in a deal scenario all current arrangements will continue and in a no-deal scenario we are seeking to put in place interim arrangements.

In both scenarios we seek to have an arrangement that will continue reciprocal healthcare after the implementation period. Were he to vote for the withdrawal agreement, the EHIC card he was talking about would continue to be used, certainly until December 2020 and possibly much later depending upon what we negotiate. These regulations seek to ensure that UK law is consistent, so that the arrangements that are in place in a potential no-deal scenario can allow reciprocal healthcare arrangements to continue.

Mr Sheerman *rose*—

Stephen Hammond: For the very last time.

Mr Sheerman: When I discussed the subject with a junior Transport Minister, who is a good colleague of the Minister's, he said that the green card—which ensures that UK drivers who are hit by an uninsured driver when driving in Europe, whether they are in their own car which they have taken to the EU or one they have hired there, are insured—will disappear as we leave the European Union and it will no longer work. He was very final about that. The hon. Gentleman is now saying that he is not sure if that is final. It is the end of a reciprocal relationship and after 2020 everyone will be uninsured when they travel abroad.

Stephen Hammond: The hon. Gentleman is putting words into my mouth that I did not say. What I said was that in a deal scenario all reciprocal arrangements will continue as per now until 31 December 2020. As I have pointed out, during that period clearly the Government will seek to negotiate an EU and EFTA states-wide continuing reciprocal arrangement. Everything we have now will immediately go into that transitional period when we negotiate. If there were a no-deal scenario, we would have to put in place interim arrangements to ensure that the current arrangements pertain. Again, during the transitional period it is the Government's intention to seek to negotiate an EU and EFTA states-wide continuing reciprocal healthcare arrangement. However, we might also have to do that on a bilateral basis with individual states. There is no intention or expectation from the Government—or from the EU or EFTA states—that 31 December 2020 is a break point. I hope that I have satisfied the hon. Gentleman on that point.

Mr Sheerman: It is all a bit of a wing and a prayer.

Stephen Hammond: I am not going to respond to the chuntering from the floor, other than to note very clearly what—

Mr Sheerman: Just in case it does not get on the record, may I—

Stephen Hammond: No, I am going to plough on—

Mr Sheerman *rose*—

The Chair: Order. The Minister is not giving way.

Stephen Hammond: The Government want to secure a wider reciprocal healthcare agreement with EU and EFTA states following the end of the implementation period, which supports a broad range of people. That is what I have just explained. In a no-deal scenario, our proposal to all EU and EFTA countries is to maintain the current reciprocal healthcare arrangements for at least a transitional period to ensure that UK nationals can continue to access affordable healthcare when they are in the EU.

The statutory instruments we consider today will support us to do that with the countries we are able to negotiate those agreements with. However, our proposal depends on reciprocity from other European countries and we are in advanced discussions with member states to ensure continuity. In the event that an agreement cannot be reached, healthcare cover for those nationals may change.

We have approached and are in discussion with other member states and are prioritising those that are the major pensioner, worker and tourist destinations. The UK and Irish Governments are committed to continuing access to healthcare arrangements within the common travel area and both Governments are taking legislative steps to ensure we can implement the arrangements in time for exit day.

The Government welcome the action by EU member states who have prepared their own legislation for a no-deal scenario, including, but not limited to, Spain, France, Portugal, and Belgium. Depending on the decisions by other member states, it is important to acknowledge that access to healthcare could change.

Mr Sheerman: Did I hear the Minister right? Forgive me for another intervention, Sir David. Did the Minister say that he thanks those other European states, because they are negotiating this? It is not final, is it? As I said earlier, this is a “coming home on a wing and a prayer” policy. Our constituents should know the position, surely. We are Members of Parliament; we are paid to come here and represent our constituents. The Minister is telling me that this legislation will mean that after 2020 they will not be insured for their healthcare when they travel abroad. That is what he is saying, because there is no certainty in what he says.

Stephen Hammond: The hon. Gentleman is completely wrong: that is not what I am saying. I will say this once again for him. If the withdrawal agreement is signed—I urge him to vote for it, because that would provide certainty for his constituents—the current arrangements will continue, and it is the Government’s intention, during the transitional period, the implementation period, to negotiate an EU and EFTA states continuing arrangement. In a no-deal scenario, we will have to put in place interim arrangements, and that is what we are discussing now. It would still be the intention—it is a very clear expectation of the Government and is very clear from the stated ambitions and comments of the EU—that reciprocal healthcare would be the subject of a negotiation, either on an EU-wide basis or by individual member states.

I accept that there is some element of uncertainty, but I hope that I can now reassure the hon. Gentleman. Each of the 27 EU member states is a country with

universal healthcare, and in general people have good options for obtaining healthcare, provided that they take the appropriate steps. Depending on the country, it will be possible to access healthcare through legal residency, current or previous employment, or by joining a social insurance scheme. Less frequently, people may need to purchase private insurance. It is always the advice when people travel overseas, including to Europe, that they should purchase appropriate travel insurance. People have always been encouraged to do that. However, I appreciate that it can be difficult for some people with long-term conditions, and it is important that people make the best decisions for their circumstances when choosing to travel.

As is the case now, UK nationals who return to live permanently in the UK will be able to access NHS care. UK nationals who currently have their healthcare funded by the UK and are resident in the EU on exit day can use NHS services in England without charge when they temporarily visit England. We recognise that that might mean change, and in some circumstances additional expense, for UK nationals living abroad. It is to avoid that that we are bringing forward these statutory instruments.

I would like to reassure the Committee that the Government have issued advice, via Government and NHS websites, to UK nationals living in and travelling to EU and EFTA states and to EU citizens living in the UK. The advice to UK nationals explains how the UK is working to maintain reciprocal healthcare arrangements, but that their continuation depends on decisions by member states. It also sets out what options people might have to access healthcare under local laws in the country that they live in if we do not have bilateral arrangements in place, and what people can do to prepare.

Mr Sheerman: The Minister has lifted the lid on this. It is horrific news for our constituents—for people who live in Huddersfield and Dewsbury and all the constituents we represent. It is, in stark terms, the end of the assurance that people can travel around Europe. We all had our little card and we knew that we did not have to go out and get private health insurance; we would be covered. We had that peace of mind. What the Minister is saying today, in plain language, is that that peace of mind will end. He has just read that out. It will end unless by luck, some wing and a prayer policy that arrives from this incompetent Government actually delivers something that they cannot promise and cannot deliver.

Stephen Hammond: The hon. Gentleman is a noble exponent of the art of opposition, but he is sensationalising and misunderstanding what I say. I have not said that the arrangements are not going to continue; what I have said is that in a no-deal scenario there may be some circumstances where people have to consider different arrangements from what they have already. It is the Government’s intention, in both a deal and a no-deal scenario, that these arrangements should continue, and that is what we will put in place this afternoon, if we ever get there.

Mr Marcus Jones (Nuneaton) (Con): The hon. Member for Huddersfield seems to be trying to imply that if someone goes on holiday in the EU area at the moment,

they do not need to have travel insurance. Now, from my experience of travelling to the EU area, it has always been advisable to have travel insurance, because in my experience, when I have had to access services, the first thing that the hospital in an EU country has asked is, “Where is your health insurance? Where is your credit card?” So it is not necessarily just a given that the card that people can obtain covers them in all eventualities.

Stephen Hammond: Where my hon. Friend is absolutely right is that, of course, it has always been the advice that people should purchase travel insurance when they travel, wherever they travel, including within the EU. The EHIC card is clearly in place. If the withdrawal agreement is signed, that arrangement will continue, but it has always been the Government’s advice that people should take out the appropriate travel insurance when travelling abroad, and he is absolutely right to make that point.

Neil Coyle (Bermondsey and Old Southwark) (Lab): I thank the Minister for giving way; he is being very generous in doing so. There are particular British expatriates living in other countries. As he said, some people have long-term conditions, including skin conditions that are temperature-sensitive and lung issues, for example. Just to be absolutely clear, he has said that there may be circumstances in which some of those people with long-term conditions may have to make other arrangements. So there is a direct disadvantage for disabled British people who are supported under the current framework who may not be supported, even under the Government’s plan. Is that correct?

Stephen Hammond: It is correct only in the unlikely circumstance of a no-deal scenario, and only in that there may not be interim arrangements put in place immediately after exit in a no-deal scenario. That is why I am setting out what the possibility might be, but I stressed that this is not what the Government hope for. Neither is it something that the Government expect or that is the Government’s ambition. What I have said is that, in the unlikely circumstance of a no-deal scenario, there may be some changes that some people need to make.

Mr Sheerman: On a point of order, Sir David. I know this Minister to be a very honest man, but I think he is in danger of misleading the Committee, only in this sense—that he keeps saying “only if we crash out without a deal”. I am sorry, but as I read the documents and listen to him when he reads from them, that does not appear to be the case. It seems to me that, whatever happens when we leave the EU, the security of being insured as people travel around Europe will disappear, whether we crash out or whether we achieve a deal.

The Chair: As a Member of 40 years’ standing, the hon. Gentleman knows perfectly well that no one can be accused of misleading anyone, so I am sure that he did not mean to say that. And as far as the point of order is concerned, it was not a point of order; it was a point of exasperation.

Stephen Hammond: Exasperation is something that many of us feel, Sir David. However, in some circumstances these instruments enable the Government to protect

individuals irrespective of reciprocity with other countries. The issue was raised during the Lords’ consideration of the Healthcare (International Arrangements) Bill and has been misreported in the press.

I want to be absolutely clear, or at least I will try to be absolutely clear, and hopefully the hon. Member for Huddersfield will accept what I say. Through these instruments, we can finish funding healthcare for people in a transitional situation. That would cover those who are in the middle of a treatment on exit day, those who have already had treatment and are receiving post-treatment care, and those who have applied for or been given authorisation for the treatment before exit day. That will apply for a year, or for the period of authorisation, whichever is later. That, of course, assumes that the member state is willing to provide the treatment and accept reimbursement from the United Kingdom. The offer that the Government are making through these instruments is to continue to fund healthcare through the current reciprocal and cross-border healthcare arrangements until 31 December 2020 in those member states that agree to reciprocate. It is not feasible to directly fund healthcare for hundreds of thousands of people living in, or visiting, the EU without the cooperation of the member states.

Many hon. Members will know that the Government have also brought forward a Bill focused on reciprocal healthcare arrangements, the Healthcare (International Arrangements) Bill. That Bill will ensure that the UK can respond to all exit scenarios, and complements the approach we are taking in these instruments. It provides powers to give effect to comprehensive healthcare arrangements that are bespoke, or are different in any way from the current arrangements provided by the EU regulations. That Bill will also provide the legislative framework to implement long-term, complex reciprocal healthcare arrangements with the EU or bilateral agreements with individual member states.

We are also exploring whether there is a need to further fund healthcare for limited numbers of people in exceptional circumstances in which there would otherwise be a very serious risk to their health. The Healthcare (International Arrangements) Bill will give us the powers to do that, and to respond to an unpredictable situation. Clearly, we need to prioritise support for those individuals who most need it, and those in countries where there are actual challenges in obtaining healthcare. It is our hope that that will not be necessary at all. I recognise the difficulty of the current situation, and assure the Committee that we are doing all we can to minimise changes in the way that care is accessed. Of course, if the withdrawal agreement is passed, there will be certainty.

I will try to pre-empt a number of questions about why these instruments are subject to the affirmative procedure and regulations under the Healthcare (International Arrangements) Bill are subject to the negative procedure, although I am sure there will be other questions. As has been explained during the course of debates on that Bill, regulations that are made under it will give effect to healthcare agreements and are most likely to focus on procedural, administrative and technical details, such as the types of documents or forms used to administer the reciprocal healthcare arrangements. The Government therefore believe that the negative procedure offers parliamentary scrutiny and proper checks on the use of delegated powers, and balances those against the

[*Stephen Hammond*]

appropriate use of parliamentary time. The withdrawal Act statutory instruments that we are debating prevent, remedy or mitigate deficiencies in the retained EU law relating to reciprocal healthcare, and in doing so amend powers to legislate, which is one of the triggers for the affirmative procedure under that Act.

I clarify that the instruments we are considering do not make any changes to welfare benefits policy; the Department for Work and Pensions is bringing forward separate legislation on welfare benefits. I also reassure hon. Members that, as I said at the outset, we have been working closely with our colleagues in the devolved Administrations, who have provided consent for these instruments. I am pleased to acknowledge those Administrations' co-operation on securing the legislative consent motions, and thank them for it. I also thank colleagues in the Northern Ireland Department of Health and in the Northern Ireland Office for the productive engagement we have had with them. We have amended the Bill to reflect the outcome of those discussions: the Secretary of State must now consult the relevant devolved Authority before making regulations under clause 2(1) containing provisions that are within the legislative competence of a devolved legislature.

Stella Creasy: For the avoidance of doubt, could the Minister set out what he believes to be the relevant devolved Authority for giving consent? He has said that in addition to the legislative consent motion, the Northern Ireland Department of Health and the Northern Ireland Office had been consulted, and had given consent. I do not want to get this wrong, so could the Minister clarify which bits which Departments have given consent to, and which relevant devolved Authority he believes will give consent to this motion at this point in time?

Stephen Hammond: What I actually said was that we have had productive and positive engagement with colleagues in the Northern Ireland Department of Health and the Northern Ireland Office, and Northern Ireland officials have agreed that they are content for the Department of Health and Social Care to lay the draft Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019. That follows a decision by UK Ministers that, in the interest of securing legal certainty in Northern Ireland, the UK Government will progress the necessary secondary legislation for Northern Ireland at Westminster, in close consultation with Northern Ireland officials and the relevant Northern Ireland Departments. I hope that satisfies the hon. Lady.

Stella Creasy: I beg the Minister's indulgence. For the avoidance of doubt, is he saying that consent to the orders will be given in Westminster for the specific Northern Ireland elements of the statutory instrument? Can he confirm that that is what he is telling us about the legislation?

Stephen Hammond: What I am telling the hon. Lady about the specific statutory instrument, the Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019, is that consent was sought from the Northern

Ireland civil service, and was provided by the permanent secretary for the Department of Health for Northern Ireland. The Northern Ireland civil service may make decisions in the public interest under the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018. Again, following decisions by UK Government Ministers, in the interest of securing legal certainty in Northern Ireland, the UK Government will progress the necessary secondary legislation in close consultation. As I have said, consent was sought from the Northern Ireland civil service, and was granted.

Mr Sheerman: Will the Minister give way? This is a constitutional point—

Stephen Hammond: It is not a constitutional point. I will not take the hon. Gentleman's intervention.

Mr Sheerman *rose*—

The Chair: Order. We can have only one person on their feet at a time. Is it the case that the Minister is not giving way?

Stephen Hammond: I have given way on a number of occasions. I am bound to say to the hon. Member for Huddersfield that I have been clear about the legal position and the legal certainty. I have given clarity that the Northern Ireland civil service and the Northern Ireland Department of Health are clear and are consenting to what we are doing.

Mr Sheerman: That is the point I wanted to ask the Minister about.

Stephen Hammond: Then the hon. Gentleman does not need to ask me, because I have just answered his question.

In addition, I am pleased to report that we have the legislative consent motions for our Healthcare (International Arrangements) Bill. To underpin and facilitate the consultation, we have developed and agreed a memorandum of understanding with the devolved Administrations, which sets out a practical and mutually beneficial working relationship. That will ensure that the devolved Administrations will continue to play a vital role in delivering reciprocal healthcare for the benefit of all United Kingdom nationals.

Mr Sheerman *rose*—

Stephen Hammond: I will give way for the last time.

Mr Sheerman: The Minister is a little grudging, but it is an important issue. He has gone through all the people whom he has consulted in Northern Ireland, and they all sounded like bureaucrats and civil servants to me. I did not hear him once say that he had confronted the facts of what is happening, through the statutory instruments, to our parliamentary colleagues or that he had put it to them. For all these years, their constituents have felt that they could go all over Europe and carry with them an extension or a bubble of the national health service that delivered the NHS promise, even

though they were travelling. Did they get the picture? Were they told in blunt terms that that will no longer exist for their constituents? For people who are travelling, it is the old Tory dream of privatising the health service.

Stephen Hammond: I was going to say that I can see why the Speaker regards the hon. Gentleman as a national treasure, but after his final remarks, it is difficult to agree.

In closing, I make it clear that the instruments make miscellaneous amendments to EU references in retained EU law—for example, by removing references to EU concepts. Moreover, together with the Healthcare (International Arrangements) Bill, the instruments are necessary to ensure that the UK Government are ready to deal with reciprocal and cross-border healthcare in any EU exit scenario. They provide us with an efficient and effective mechanism to ensure that there will be no interruption to people's healthcare in a no-deal scenario.

I thank members of the Committee for their valuable contributions.

6.35 pm

Paula Sherriff (Dewsbury) (Lab): It is a pleasure, Sir David, to be here discussing the draft regulations. The Opposition have started our speeches on Brexit SIs with a caveat, and I shall do so again this evening, so I apologise for any repetition.

We are now just four days away from Brexit day, as I am sure everyone is well aware. It is deeply concerning that we are still planning for a no-deal scenario when we are so close to the deadline. Once again, we are in Committee to discuss a statutory instrument that would make provision for the regulatory framework after Brexit in the event that we crash out without a deal. On each similar occasion, I and my Labour Front-Bench colleagues have spelled out our objections to the Government's approach to secondary legislation.

The volume and flow of EU exit secondary legislation is deeply concerning for accountability and proper scrutiny. The Government have assured the Opposition that no policy decisions are being taken. However, establishing a regulatory framework, for example, inevitably involves matters of judgment and raises questions about resourcing and capacity. Secondary legislation should be used for technical, non-partisan, non-controversial changes, because of the limited accountability that it allows. Instead, the Government continue to push through contentious legislation with high policy content via such vehicles. As legislators, we have to get things right. The regulations could represent real and substantive changes to the statute book and they need proper in-depth scrutiny. In the light of that, the Opposition would once again like to put on record our deepest concerns that the process for these regulations is not as accessible and transparent as it should be.

With that out of the way, as always I have some concerns and questions about the statutory instruments. I understand that the three SIs set out provisions for an "orderly wind-down" of UK reciprocal healthcare arrangements with the EU and European economic area in the case of no deal, and that they allow for treatment that is in progress or that was authorised before exit day to be completed on either side of the channel, and—so far as possible acting unilaterally—for reimbursement for those treatments. I also understand

that the Department of Health and Social Care regards the regulations as a temporary provision, which, until the Healthcare (International Arrangements) Bill comes into effect, will allow the current system, including the European healthcare insurance card and S1 form, to be continued until 31 December 2020 with individual countries. The Minister has alluded to that.

The transitional elements allow for all ongoing treatment to continue for a maximum period of one year following exit, and for pre-authorised treatments. Similarly, dedicated regulations deal with the special situation in Northern Ireland, where such arrangements are more frequent owing to the land border with the Republic of Ireland. I know that the Department of Health and Social Care regards the regulations as a temporary provision, but an article in *The Guardian* this week showed that British nationals in Europe feel that the healthcare plans for pensioners are "sick" and "uncaring". They feel that they are being thrown under a bus and abandoned. They do not think that the one-year undertaking is at all adequate. The Minister will need to deal with the fact that the measure does not reassure many of our fellow citizens living abroad who access healthcare abroad.

As to the Northern Ireland regulations, people need clear guidance to avert harm in the event of no deal. Health services in Northern Ireland and the Republic of Ireland, working separately, often do not have sufficient demand to provide cost-effective, highly specialised medical services. More than €40 million has been invested in cross-border health and social care initiatives via Co-operation and Working Together, a partnership between the health and social care services in Northern Ireland and the Republic of Ireland. Cross-border service arrangements have been established and are currently providing high-quality, safe care for patients, in a range of areas including primary care, cancer services, and paediatric cardiac surgery. Those vital health services must not be destabilised during, or after, the Brexit process, regardless of the outcome.

It is also vital that patient access to key health services is not jeopardised during the Brexit process. Can the Minister provide assurances on that? Will he also agree to an equality impact assessment to ascertain the number of Brits who may lose access to treatment for long-term conditions if his desire for a deal is not realised? It would also be good to understand what the cost would be of any of those Brits having to return home for treatment, as clearly there might be financial implications.

Lastly, on the Social Security Coordination (Reciprocal Healthcare) (Amendment etc.) (EU Exit) Regulations 2019, we are talking about the European health insurance card. Some 27 million of our fellow citizens hold the EHIC and some 190,000 UK pensioners living elsewhere in the EU are registered with the S1 scheme. One week away from Brexit, the NHS England website is still encouraging people to apply for the EHIC, even though it might not be valid in one week's time, and it is very difficult to see what other advice is available. There is no advice about taking out additional insurance, and no advice whatsoever for those with long-term conditions. That is completely inadequate and it will not do when we are so close to what might be an exit without a deal.

Can the Minister tell me how people will know what to do? How will they go about finding out? When will the NHS website be updated? What will happen to those people, who already feel abandoned, if in just

[Paula Sherriff]

over a week's time we leave the European Union without a deal and they find that they cannot access clear advice on how to keep themselves and their families safe?

6.41 pm

Martyn Day (Linlithgow and East Falkirk) (SNP): It is a pleasure to serve under your chairmanship, Sir David. I will be brief; I agree with much of what has already been said. Brexit clearly threatens the healthcare of millions of people in Scotland, and their healthcare rights when abroad are something that the Scottish people did not vote to have taken away from them.

It will come as no surprise that the House of Commons has overwhelmingly voted to rule out a no-deal Brexit, as have both the Scottish and Welsh Parliaments, yet here we are still discussing no-deal Brexit contingencies. However, I am pleased that there has been agreement with the Scottish Government on a legislative consent motion. We have never been opposed to common frameworks, but we have always believed that they must be agreed with discussion and with the consent of the devolved Administrations, which in this case they have been. I welcome that progress and that respect for the devolution settlement.

It is clear that mechanisms need to be in place to protect those currently making use of reciprocal healthcare arrangements, as they are being put under considerable psychological and, potentially, physical stress as a result of this Government's decisions. As these measures, should we ever be in the position of having to use them, go some way toward alleviating their situation, I will not be opposing them today.

6.42 pm

Stella Creasy: It is always a pleasure to serve under your august chairmanship, Sir David. I rise simply to put on record a concern that many of us have, having heard what the Minister has said about this matter. We recognise that we are hampered by the fact that many SIs are being bundled together. With many of these SIs, as the hon. Member for Linlithgow and East Falkirk pointed out, we do not want to be in this situation at all, because many of us have such concerns about Brexit. However, we understand that the necessary legislation needs to be there should the worst happen, and therefore we cannot unbundle these SIs to express our concerns in particular about the SI relating to Northern Ireland.

I want to put on record that the Minister has essentially admitted that, by the process he has set out, we are facing direct rule in Northern Ireland. He talked about the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 and laying an SI, and he said clearly that consent has been given for this legislation not by elected representatives of the people of Northern Ireland, as the legislation sought to do under traditional legislative consent motions, but in fact by bureaucrats and by people here in Westminster.

The Minister will know that healthcare is a devolved issue; that is why I asked him all those questions about how the Government are using the 2018 Act. It is clear from this SI that their concept of the national interest is being stretched to cover bureaucrats and people in this place making decisions on behalf of the people of Northern Ireland. He may say to me, "Well, there isn't a

functioning Assembly in Northern Ireland"—many of us know that all too well—but he owes the people of Northern Ireland the honesty and decency to admit that, since the Government are using that piece of legislation on measures such as this and claiming a very broad interpretation of the national interest, we now have direct rule in this place for the people of Northern Ireland.

If the motions were unbundled, it might be a different matter, because those of us who believe in democracy believe that the people of Northern Ireland have a right to that truth. Because they are not unbundled, we cannot do that, so I am putting on record the Labour party's concerns about the way in which the people of Northern Ireland have been treated in this statutory instrument.

6.45 pm

Mr Sheerman: I do not want to speak for more than half an hour, but I must make the point about this bundling. I have been on many Delegated Legislation Committees and have become quite an expert on statutory instruments.

Stephen Hammond: If the hon. Gentleman and the hon. Member for Walthamstow did not want the statutory instruments to be bundled, they could have said so at the beginning of the Committee. The Government did nothing other than seek the permission of the Committee to bundle them. Should the Committee have wished, I would have been perfectly happy to unbundle them.

Stella Creasy: Will the Minister give way?

The Chair: Order. We cannot have interventions on interventions. The Minister is intervening on Mr Sheerman.

Stephen Hammond: I recognise the concerns of the hon. Gentleman and the hon. Lady and I will address their points, but the Government asked the Committee to agree, and the Committee agreed to the bundling of the statutory instruments.

Mr Sheerman: I take that point. There has been honest confusion, because when the Minister introduced the statutory instruments, I did not realise that, because they had all been bundled, I could not have a responsible view and single out the statutory instrument relating to Northern Ireland. I would not want to vote against that, but I want to vote against the others. I did not realise that was what would happen; I thought we would vote on each one.

The Chair: Order. I should clarify that there will be the opportunity to vote against each statutory instrument separately.

Mr Sheerman: That is reassuring. Those of us who have become experienced with statutory instruments in these Committee rooms, with brilliant Chairs who keep the peace, try to do our job as parliamentarians and scrutinise them, but there is a large number of them. We trundle up here; very often the Minister gabbles through his or her speech and gets quite sulky if someone intervenes. This Minister has not—he has given way in good humour and I thank him for it—but many Ministers gabble through and get irritated if Members intervene.

This hothouse of Committees churning through this stuff is something of a national scandal. We all know that we do not have the time to scrutinise the legislation.

The Chair: Order. The hon. Gentleman's remarks are very wide; they are general remarks about the way these matters are dealt with.

Mr Sheerman: Quite right; I just wanted to set the context. I am very unhappy that these statutory instruments are scrambled together, but I thought that we would not be able to vote on each one, so I am reassured.

These statutory instruments look quite innocent, but we have unpicked them and asked the Minister questions, and there will be a dramatic impact on our constituents when they travel. They will no longer have the protection that we have all got used to over many years of going round Europe and knowing that we do not have to take up time with insurance because our insurance from the national health service follows us, with this lovely card that we all carry. Most of my constituents and those of Members here will be shocked when they go on holiday and are told, "You have to get private insurance; you won't be covered. The green card doesn't cover you because if an uninsured driver hits you, you'll be in real trouble." This is a serious issue. We are taking away from the citizens of this country the health protection that they have got used to after many years. The Minister says, "At some point it will all turn out all right because the negotiations will deliver something." I cannot, hand on heart, say to my constituents that there will not be an abrupt change to all their holiday and business travel plans.

I only wanted to make that point, but I wanted to make it forcefully. I hope the Minister has not taken umbrage—I hope no other Committee members have, either—but it is our job to scrutinise and unpick some of the things that come before us. The Minister has been generous in taking interventions and, although I am not satisfied and will vote against some of the SIs, I am pleased that we have had some debate rather than sitting here supine, accepting stuff that comes down from the Executive.

6.50 pm

Stephen Hammond: Of course I do not take umbrage at the hon. Gentleman's criticism or scrutiny. After all, that is what he is here to do. I would just say to him, though, that his characterisation of what the Government are putting in place is wrong. He can say to his constituents that if the withdrawal agreement is passed, there will be no interruption to their healthcare. In a no-deal situation, these instruments will allow—

Neil Coyle: For a fixed period.

Stephen Hammond: I made it very clear that it is the intention—the expectation—of both the UK Government and the EU and EFTA states that there will be an agreement about reciprocal healthcare.

The hon. Member for Walthamstow raised a number of issues about Northern Ireland. As she rightly pointed out, healthcare is fully devolved to Northern Ireland. These statutory instruments would normally be dealt with by the Northern Ireland Assembly. In the absence

of the Northern Ireland Assembly, and in the absence of a Northern Ireland Executive, statutory instruments under the European Union (Withdrawal) Act 2018 have to be laid in Westminster to allow for debate and scrutiny. She has heard that that Act was consented to by the Secretary of State for Northern Ireland. The Northern Ireland consent for social security regulations was provided by the permanent secretary for the Northern Ireland Department of Health, which is the appropriate place in the absence of the Northern Ireland Assembly. Her characterisation of direct rule is incorrect.

Stella Creasy: Will the Minister give way?

Stephen Hammond: For the very last time.

Stella Creasy: The Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 explicitly sets out that Ministers must also have regard to representations made by Members of the Northern Ireland Assembly. What efforts has the Minister made to seek the views of Members of the Northern Ireland Assembly on these particular statutory instruments? Even if the Assembly is not sitting, it is written into that Act that its Members should be able to make representations. Can he clarify what he has done in that respect, please?

Stephen Hammond: I can clarify that the permanent secretary for the Northern Ireland Department of Health was consulted, as I said.

The hon. Member for Dewsbury asked about arrangements for cancer and paediatric heart surgery. The north-south arrangements provide that services such as paediatric heart surgery on the island of Ireland are not impacted by the UK's withdrawal from the EU or these statutory instruments. Those arrangements operate under memorandums of understanding and service level agreements between the Irish and Northern Irish health authorities, which will continue to operate after exit day. The UK and Irish Governments are committed to continuing access to healthcare services within the common travel area, and both Governments are taking steps to enable us to implement these arrangements in time for exit day.

The hon. Member for Southwark and Old Bermondsey asked me about—sorry, Old Bermondsey and Southwark—

Neil Coyle: Bermondsey and Old Southwark.

Stephen Hammond: I'll get there in the end. The hon. Gentleman asked about a number of chronic conditions. The statutory instruments allow the Government to fund the treatment of UK nationals who are in the middle of treatment on exit day or who have pre-authorised treatment in another member state. That could include the chronic conditions he mentioned.

Finally, I am not sure which part of the website the hon. Member for Dewsbury was looking at, but I am happy to ensure that we guide her to the right place. There is advice on www.gov.uk and www.nhs.uk to UK nationals living in the EU, to UK residents travelling to the EU and to EU nationals living in the UK. That advice explains how the UK is working to maintain reciprocal healthcare arrangements and sets out the options people might have to access healthcare under

[Stephen Hammond]

local laws in member states that they live in. I am happy to ensure that the hon. Member for Dewsbury can see that guidance.

Richard Graham (Gloucester) (Con): The Minister has done an outstanding job in explaining a complex matter fairly concisely and taking innumerable interventions, mostly the same ones. Could we now move to a vote?

Stephen Hammond: I understand my hon. Friend's entreaty.

These three instruments, together with the Healthcare (International Arrangements) Bill, give us the best possible opportunity to ensure that there is no loss of reciprocal healthcare arrangements for UK nationals in the EU and EFTA states. I commend the regulations to the Committee.

Question put.

The Committee divided: Ayes 9, Noes 1.

Division No. 1]

AYES

Badenoch, Mrs Kemi	Morton, Wendy
Courts, Robert	O'Brien, Neil
Graham, Richard	Throup, Maggie
Hammond, Stephen	Tomlinson, Michael
Jones, Mr Marcus	

NOES

Sheerman, Mr Barry

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Social Security Coordination (Reciprocal Healthcare) (Amendment etc.) (EU Exit) Regulations 2019.

**DRAFT NATIONAL HEALTH SERVICE
(CROSS-BORDER HEALTHCARE AND
MISCELLANEOUS AMENDMENTS ETC.)
(EU EXIT) REGULATIONS 2019**

Motion made, and Question put,

That the Committee has considered the draft National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019.—(Stephen Hammond.)

The Committee divided: Ayes 9, Noes 1.

Division No. 2]

AYES

Badenoch, Mrs Kemi	Morton, Wendy
Courts, Robert	O'Brien, Neil
Graham, Richard	Throup, Maggie
Hammond, Stephen	Tomlinson, Michael
Jones, Mr Marcus	

NOES

Sheerman, Mr Barry

Question accordingly agreed to.

**DRAFT HEALTH SERVICES (CROSS-BORDER
HEALTH CARE AND MISCELLANEOUS
AMENDMENTS) (NORTHERN IRELAND)
(EU EXIT) REGULATIONS 2019**

Resolved,

That the Committee has considered the draft Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019.—(Stephen Hammond.)

6.59 pm

Committee rose.