

2011 No. 1556

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (Charges to Overseas Visitors)
Regulations 2011**

<i>Made</i> - - - -	<i>21st June 2011</i>
<i>Laid before Parliament</i>	<i>27th June 2011</i>
<i>Coming into force</i> - -	<i>1st August 2011</i>

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The Secretary of State for Health, in exercise of the powers conferred by sections 175 and 272(7) and (8) of the National Health Service Act 2006(a), makes the following Regulations:

PART 1
INTRODUCTION

Citation, commencement and application

- 1.—(1) These Regulations may be cited as the National Health Service (Charges to Overseas Visitors) Regulations 2011 and come into force on 1st August 2011.
- (2) These Regulations apply in relation to England(b).

Interpretation

- 2.—(1) In these Regulations—
“the Act” means the National Health Service Act 2006;
“authorised child” means a child who—
 - (a) has been granted leave to enter the United Kingdom with a parent or legal guardian of that child for the purpose of the parent or legal guardian receiving a course of treatment in respect of which no charge may be made or recovered under regulation 13; or

(a) 2006 c. 41. See also section 275(1) which defines “prescribed” and “regulations”.

(b) The powers of the Secretary of State under the provisions of the National Health Service Act 2006 (c. 41) (“the Act”) under which these Regulations are made are exercisable only in relation to England by virtue of section 271 of the Act.

- (b) is a child of an authorised companion;

“authorised companion” means a person who has been granted leave to enter the United Kingdom to accompany a person who is obtaining a course of treatment in respect of which no charge may be made or recovered under regulation 13;

“child” means a person who is—

- (a) under the age of sixteen; or
(b) a qualifying young person within the meaning of section 142 of the Social Security Contributions and Benefits Act 1992(a) (“child” and “qualifying young person”) or section 138 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b);

“Continental Shelf” except in reference to a designated area of the Continental Shelf means the seabed and subsoil of the submarine area (other than in the Baltic or Mediterranean Seas, including the Adriatic and Aegean, or the Black Sea), adjacent to the coasts, lying north of the latitude of 25 degrees north and between the longitude of 30 degrees west and 35 degrees east, of the territory (including islands) of—

- (a) any country situated on the Continent of Europe; or
(b) the Republic of Ireland,

where the submarine area is outside the seaward limits of the territorial limits of those countries and the Republic of Ireland and is an area with respect to which the exercise by any of them of sovereign rights in accordance with international law is recognised by the Government of the United Kingdom;

“designated area of the Continental Shelf” means any area which is for the time being designated by an Order in Council under section 1(7) of the Continental Shelf Act 1964(c) as an area within which the rights of the United Kingdom with respect to the sea-bed and subsoil and their natural resources may be exercised;

“NHS trust” means an NHS trust all or most of whose hospitals, establishments and facilities are situated in England;

“overseas visitor” means a person not ordinarily resident in the United Kingdom;

“reciprocal agreement” means arrangements mutually agreed between the Government of the United Kingdom and the Government of a country or territory outside the United Kingdom for the provision of health care;

“relevant NHS body” means an NHS foundation trust, an NHS trust, a Primary Care Trust, a Strategic Health Authority or a Special Health Authority;

“relevant period” means the period from 9th July 2012 to 12th September 2012;

“relevant services” means (except in regulation 8(2)(c)) accommodation, services or facilities provided under section 3(1) of the Act (Secretary of State’s duty as to provision of certain services), other than primary dental services, primary medical services or primary ophthalmic services;

“ship or vessel” includes a hovercraft;

“treatment the need for which arose during the visit” means—

- (a) diagnosis of symptoms or signs occurring for the first time after the visitor’s arrival in the United Kingdom; or
(b) treatment which, in the opinion of a medical or dental practitioner employed by or providing services to, the relevant NHS body, is required promptly for a condition which—
(i) arose after the visitor’s arrival in the United Kingdom;
(ii) became acutely exacerbated after the visitor’s arrival; or
(iii) but for the treatment would be likely to become acutely exacerbated after the visitor’s arrival.

(a) 1992 c. 4. Section 142 was substituted by section 1(2) of the Child Benefit Act 2005 (c. 6).

(b) 1992 c. 7. Section 138 was substituted by section 2(2) of the Child Benefit Act 2005 (c. 6).

(c) 1964 c. 29.

(2) In calculating a period of residence in the United Kingdom for the purposes of these Regulations, any interruption by reason of temporary absence of not more than 182 days must be disregarded. The temporary absence cannot include an absence where the overseas visitor was not lawfully entitled to enter or remain in the United Kingdom.

PART 2

PROVISION FOR MAKING AND RECOVERY OF CHARGES

Obligation to make and recover charges

3.—(1) A relevant NHS body must make and recover charges from the person liable under regulation 4 where it provides an overseas visitor with relevant services and the condition specified in paragraph (2) applies.

(2) The condition specified in this paragraph is that the relevant NHS body having made such enquiries as it is satisfied are reasonable in all the circumstances, including in relation to the state of health of that overseas visitor, determines that the case is not one in which these Regulations provide for no charge to be made.

(3) A relevant NHS body that makes and recovers a charge in accordance with paragraph (1), must give or send to the person making the payment a receipt for the amount paid.

(4) Where—

- (a) a relevant NHS body has determined that an overseas visitor is exempt from being charged for relevant services under these Regulations;
- (b) that overseas visitor has received relevant services from a relevant NHS body as part of a course of treatment; and
- (c) prior to the course of treatment being completed, a relevant NHS body determines that that overseas visitor is no longer exempt from being charged for relevant services under these Regulations

a relevant NHS body may not make and recover charges under paragraph (1) in respect of relevant services provided as part of that course of treatment during a period where the overseas visitor has remained in the United Kingdom without absence.

(5) Paragraph (4) does not apply where a relevant NHS body determines that a person is exempt from being charged for relevant services as a result of receiving fraudulent or misleading information.

Liability for payment of charges

4.—(1) The person liable to pay charges under these Regulations is, unless paragraph (2), (3) or (4) applies, the overseas visitor in respect of whom the relevant services are provided.

(2) Where an overseas visitor is employed to work on and for the purposes of a ship or vessel and is present in the United Kingdom in the course of such employment, the person liable to pay charges under these Regulations is the owner of the ship or vessel on which the overseas visitor is employed.

(3) Where an overseas visitor is employed to work on and for the purposes of an aircraft and is present in the United Kingdom in the course of such employment, the person liable to pay charges under these Regulations is the employer of that overseas visitor.

(4) Where an overseas visitor is a child to whom no exemption under these Regulations applies, the person liable to pay charges under these Regulations is the parent or legal guardian of that child.

Repayments

5.—(1) Where a sum has been paid in respect of a charge for relevant services by or on behalf of a person who—

- (a) at the time that those services were provided was not an overseas visitor in respect of whom the charge was payable; or
- (b) did not receive the services for which the charge was payable,

a claim for repayment of the sum may be made in accordance with this regulation.

(2) A person making a claim for repayment of a sum must provide to the relevant NHS body—

- (a) the receipt for payment of the sum;
- (b) a declaration in support of the claim signed by or on behalf of the claimant; and
- (c) such other evidence in support of the declaration as the relevant NHS body may require.

(3) The relevant NHS body must repay to the claimant the amount of the sum if it is satisfied that the sum was not payable by virtue of these Regulations.

(4) For the purposes of this regulation, the relevant NHS body is the one to which the sum was paid.

PART 3

EXEMPTIONS

Services exempted from charges

6. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor which fall within the following paragraphs—

- (a) accident and emergency services, whether provided at a hospital accident and emergency department, a minor injuries unit, a walk-in centre or elsewhere, but not including any services provided—
 - (i) after the overseas visitor has been accepted as an in-patient; or
 - (ii) at an outpatient appointment;
- (b) services otherwise than at, or by staff employed to work at, or under the direction of, a hospital^(a);
- (c) family planning services;
- (d) treatment in respect of a disease listed in Schedule 1;
- (e) treatment for sexually transmitted infections, but in the case of services which relate to infection with Human Immunodeficiency Virus, only to the extent that they consist of a diagnostic test for evidence of infection with the Virus and counselling associated with that test or its result;
- (f) services provided to an overseas visitor who is liable to be detained in a hospital or, received into guardianship under the Mental Health Act 1983^(b) “(the 1983 Act)” or any other enactment authorising detention in a hospital by reason of mental disorder, or subject to a community treatment order under the 1983 Act^(c);
- (g) treatment which is provided in circumstances where—
 - (i) a requirement to submit to the form of treatment concerned is imposed by, or included in, an order of a court; and
 - (ii) paragraph (f) does not apply.

(a) See section 275(1) of the National Health Service Act 2006 (c. 41) for the definition of “hospital”.

(b) 1983 c. 20 as amended by the Mental Health Act 2007 (c.12).

(c) See section 17A of the 1983 Act inserted by section 32(1) and (2) of the Mental Health Act 2007, which defines “community treatment order” for the purposes of the 1983 Act.

Overseas visitors exempt from charges - lawful residence for 12 months

7.—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who has resided lawfully in the United Kingdom for a period of not less than 12 months immediately preceding the time when such services are provided.

(2) Paragraph (1) does not apply to a person who has leave to enter the United Kingdom for the purpose of undergoing private medical treatment, or a person in relation to whom a determination under regulation 13 has been made.

(3) Where a person meets the residence qualification in paragraph (1) on a date during a course of treatment for which charges could have been made prior to that date, no charge may be made in respect of services subsequently received.

Overseas visitors exempt from charges - presence for work, study etc., or to settle

8.—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is shown to the satisfaction of the relevant NHS body for any purpose specified in paragraph (2) to be present—

- (a) in the United Kingdom;
 - (b) in a designated area of the Continental Shelf;
 - (c) in or over any area of the Continental Shelf; or
 - (d) on a stationary structure within the territorial waters of the United Kingdom.
- (2) The purposes specified for this paragraph are—
- (a) engaging in employment with an employer which has its principal place of business in the United Kingdom or which is registered in the United Kingdom as a branch of an overseas company;
 - (b) being a self-employed person whose principal place of business is in the United Kingdom;
 - (c) working as a volunteer with a voluntary organisation that is providing a service similar to a relevant service as defined in sections 64 and 65 (financial and other assistance to certain voluntary organisations) of the Health Services and Public Health Act 1968(a), or a service to which Article 71 (arrangements with and assistance to voluntary organisations) of the Health and Personal Social Services (Northern Ireland) Order 1972(b) applies;
 - (d) pursuing a full time course of study which is—
 - (i) substantially funded by the Secretary of State, the Welsh Ministers, Northern Ireland departments or the Scottish Ministers; or
 - (ii) of at least six months duration; and
 - (e) taking up permanent residence in the United Kingdom.

Overseas visitors exempt from charges – EU Rights

9. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who has entitlement to the provision of the services in question under or by virtue of any of the following—

- (a) regulations made under article 48 of the Treaty on the Functioning of the European Union;
- (b) an agreement entered into between the European Union and any other country;
- (c) any other enforceable EU right(c).

(a) 1968 c.46.

(b) S.I. 1972/1265 (N.I. 14).

(c) For the expression “enforceable EU right”, see section 2(1) of the European Communities Act 1972 (c.68) as amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

Overseas visitors exempt from charges - reciprocal agreements

10. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor where those services are provided in circumstances covered by a reciprocal agreement with a country or territory specified in Schedule 2.

Overseas visitors exempt from charges – refugees, asylum seekers and children in care

11. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who—

- (a) has been granted temporary protection, asylum or humanitarian protection under the immigration rules made under section 3(2) (general provisions for regulation and control) of the Immigration Act 1971(a);
- (b) has made an application, which has not yet been determined, to be granted temporary protection, asylum or humanitarian protection under those rules;
- (c) is currently supported under section 4 or 95 of the Immigration and Asylum Act 1999(b); or
- (d) is a child, taken into local authority care under the Children Act 1989(c).

Overseas visitors exempt from charges – human trafficking

12.—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor, where the competent authorities—

- (a) consider that there are reasonable grounds to believe that person is a victim within the meaning of Article 4 of the Convention, and the recovery and reflection period in relation to that person under Article 13 of the Convention has not yet expired; or
- (b) have identified that person as a victim within the meaning of Article 4 of the Convention.

(2) In this regulation, “the competent authorities” means the competent authorities of the United Kingdom for the purposes of the Convention, and “the Convention” means the Council of Europe Convention on Action Against Trafficking in Human Beings(d).

Overseas visitors exempt from charges - exceptional humanitarian reasons

13.—(1) Where an overseas visitor who has been granted leave to enter the United Kingdom for a course of treatment applies (or someone on his behalf applies) for exemption from charges for relevant services, and the Secretary of State determines that exceptional humanitarian reasons justify it, then no charge may be made or recovered in respect of that overseas visitor and that course of treatment.

(2) Such a determination may only be made by the Secretary of State if the Secretary of State is satisfied in the case of that overseas visitor that—

- (a) the treatment specified is not available in that person’s home country;
- (b) the necessary arrangements have been made for temporary accommodation for that person, any authorised companion and any authorised child for the duration of the course of treatment; and
- (c) the necessary arrangements have been made for the return of that person, any authorised companion and any authorised child to their home country when the course of treatment is completed.

(a) 1971 c. 77.

(b) 1999 c. 33. Section 4 was amended by section 49(1) and (2) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (“the 2002 Act”), section 10(1) and (6) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19) and section 43(7) of the Immigration, Asylum and Nationality Act 2006 (c. 13). Section 95 was amended by sections 44(1) and (6) and 50(1) of the 2002 Act.

(c) 1989 c. 41. Part III provides for Local Authority Support for Children and Families.

(d) Cmd 7465. The Council of Europe Convention on Action against Trafficking in Human Beings 2005 (CETS No. 197) was opened for signature in Warsaw on 16th May 2005.

Overseas visitors exempt from charges - diplomats

14. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is a diplomatic agent for the purposes of the Articles of the Vienna Convention on Diplomatic Relations set out in Schedule 1 to the Diplomatic Privileges Act 1964(a).

Overseas visitors exempt from charges - NATO forces

15.—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is a person to whom Article IX(5) of the North Atlantic Treaty Organisation Status of Forces Agreement(b) applies.

(2) This regulation applies where the services in question cannot readily be provided by the medical services of the armed forces of the overseas visitor's own country, or those of the United Kingdom.

Overseas visitors exempt from charges - long term visits by United Kingdom pensioners

16. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor whilst in the United Kingdom, who is—

- (a) in receipt of a retirement pension under the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (b) resident in the United Kingdom for more than 182 days, and in another EEA state or Switzerland for less than 183 days each year; and
- (c) not registered as a resident of another EEA state or Switzerland.

Overseas visitors exempt from charges - war pensioners and armed forces compensation scheme payment recipients

17. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is in receipt of—

- (a) any pension or other benefit under a Personal Injuries Scheme or Service Pensions Instrument as defined in regulation 2(1) (interpretation) of the Social Security (Overlapping Benefits) Regulations 1979(c); or
- (b) a payment made under article 15(1)(c) (description of benefits - injury) or article 29(1) (description of benefits - death) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(d).

Overseas visitors exempt from charges – Her Majesty's United Kingdom Forces, Crown servants and others

18. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is any of the following—

- (a) a member of Her Majesty's United Kingdom forces;
- (b) a Crown servant (other than a person falling within sub-paragraph (a)), recruited in the United Kingdom and employed by, or in the service of, the Government of the United Kingdom;
- (c) an employee, recruited in the United Kingdom, of the British Council or the Commonwealth War Graves Commission;

(a) 1964 c. 81.

(b) Cmd 9363 of 1955. The Agreement was made in London on 19th June 1951. Article IX(5) provides for visiting forces to receive medical, dental and hospital services under the same conditions as comparable personnel of the receiving state, where there are inadequate facilities where they are stationed.

(c) S.I.1979/597. Relevant amendments are made by S.I. 1980/1927.

(d) S.I. 2011/517.

- (d) working in employment that is financed in part by the Government of the United Kingdom in accordance with arrangements with the Government of some other country or territory or a public body in such other country or territory.

Overseas visitors exempt from charges – former residents working overseas

19. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who—

- (a) has at any time had not less than ten years continuous lawful residence in the United Kingdom; and
- (b) is employed or self-employed outside the United Kingdom, provided that the period of employment or self-employment has lasted for no more than five years.

Overseas visitors exempt from charges - missionaries

20. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is working as a missionary for an organisation that is established in the United Kingdom, regardless of whether the missionary—

- (a) derives a salary or wage from the organisation; or
- (b) receives any type of funding or assistance from the organisation for the purposes of working overseas for the organisation.

Overseas visitors exempt from charges - prisoners and detainees

21. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor—

- (a) whose detention in prison or in an institution provided by the Secretary of State under section 43(1) (remand centres and young offender institutions) of the Prison Act 1952(a) is for the time being authorised by law; or
- (b) who is detained under any of the following provisions—
 - (i) Schedule 2 (administrative provisions as to control on entry etc) or 3 (supplementary provisions as to deportation) to the Immigration Act 1971(b);
 - (ii) section 62 (detention by Secretary of State) of the Nationality, Immigration and Asylum Act 2002(c);
 - (iii) section 40(7)(c) (searches: contracting out) of the Immigration, Asylum and Nationality Act 2006(d);
 - (iv) section 2 (detention) or 36 (detention) of the UK Borders Act 2007(e).

(a) 1952 c. 52. Section 43 was substituted by section 11 of the Criminal Justice Act 1982 (c.48). Subsection (1) has been amended by section 170 of, and paragraph 11 of Schedule 15, and Schedule 16 to, the Criminal Justice Act 1988 (c.33), section 168(3) of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c.33), section 119 of, and paragraph 6 of Schedule 8 to, the Crime and Disorder Act 1998 (c.37), section 165(1) of, and paragraph 5 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), and section 148(1) of, and paragraph 3 of Part 2 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4). Prospective amendments are made by sections 59 and 75 of, and Schedule 8 to, the Criminal Justice and Court Services Act 2000 (c. 43).

(b) 1971 c. 77. Relevant amendments to Schedule 2 are made by section 169(1) of, and paragraphs 43 and 60 of Schedule 14 to, the Immigration and Asylum Act 1999 (c.33) (“the 1999 Act”), and section 140(1) of that Act, section 73(5) of the Nationality, Immigration and Asylum Act 2002 (c.41) (“the 2002 Act”) and section 42(1) and (3) of the Immigration, Asylum and Nationality Act 2006 (c.13) (“the 2006 Act”). Relevant amendments to Schedule 3 are made by section 64 of, and Schedule 10 to, the Criminal Justice Act 1982 (c.48), section 54 of the 1999 Act, and section 169(1) of, and paragraphs 43 and 68 of Schedule 14 to that Act, section 114(3) of, and paragraph 7 of Schedule 7 to, the 2002 Act, section 34 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19), and section 53 of the 2006 Act.

(c) 2002 c. 41.

(d) 2006 c. 13.

(e) 2007 c. 30.

Overseas visitors exempt from charges - employees on ships

22. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is employed on a ship or vessel registered in the United Kingdom.

Overseas visitors exempt from charges for treatment the need for which arose during the visit only

23.—(1) No charge may be made or recovered in respect of any relevant services, consisting of treatment the need for which arose during the visit, provided to an overseas visitor who is any of the following—

- (a) in receipt of a pension or benefit under the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and has at any time had—
 - (i) not less than ten years continuous lawful residence in the United Kingdom; or
 - (ii) not less than ten years continuous service as a Crown servant employed by, or in the service of, the Government of the United Kingdom;
- (b) resident in an EEA state, Switzerland or in a country or territory specified in Schedule 2 (except Israel) and has at any time had not less than ten years continuous lawful residence in the United Kingdom;
- (c) a national of a state which is a contracting party to the European Convention on Social and Medical Assistance 1954(a) or the European Social Charter 1961(b) and is—
 - (i) lawfully present in the United Kingdom; and
 - (ii) without sufficient resources to pay the charge;
- (d) an authorised child or an authorised companion; or
- (e) an individual who is in the United Kingdom as part of the “Games Family”, as defined in Schedule 3, during the relevant period.

(2) For the purposes of this regulation, “treatment” includes medical, dental and nursing services required for—

- (a) the care of women who are pregnant or in childbirth; or
- (b) the prevention or diagnosis of illness.

Family members of overseas visitors

24.—(1) Where paragraph (2) applies, no charge may be made or recovered in respect of any relevant services provided to a member of the family of an overseas visitor, where that family member is lawfully present in the United Kingdom.

(2) Paragraph (1) applies in relation to an overseas visitor who is exempt from charges under any of the following regulations—

- (a) regulation 12 (human trafficking);
- (b) regulation 15 (NATO forces);
- (c) regulation 18 (Her Majesty’s United Kingdom Forces, Crown servants and others);
- (d) regulation 20 (missionaries).

(3) Where paragraph (4) applies, no charge may be made or recovered in respect of any relevant services provided to a member of the family of an overseas visitor, where the member of the family is lawfully present on a permanent basis with the overseas visitor whilst the overseas visitor is residing in or visiting the United Kingdom.

(a) Cmd. 9512. The European Convention on Social and Medical Assistance (CETS No. 14) was opened for signature in Paris on 11th December 1953.

(b) Cmd. 1667. The European Social Charter (CETS No. 35) was opened for signature in Turin on 18th October 1961. Article 13 provides the right to social and medical assistance.

(4) Paragraph (3) applies in relation to an overseas visitor who is exempt from charges under any of the following regulations—

- (a) regulation 7 (lawful residence for 12 months);
- (b) regulation 8 (presence for work, study etc., or to settle);
- (c) regulation 9 (EU rights);
- (d) regulation 11 (refugees, asylum seekers and children in care);
- (e) regulation 14 (diplomats);
- (f) regulation 16 (long term visits by United Kingdom pensioners);
- (g) regulation 17 (war pensioners and armed forces compensation scheme payment recipients);
- (h) regulation 19 (former residents working overseas);
- (i) regulation 21 (prisoners and detainees);
- (j) regulation 22 (employees on ships).

(5) Where paragraph (6) applies, no charge may be made or recovered in respect of any relevant services consisting of treatment the need for which arose during the visit, provided to a member of the family of an overseas visitor, where the member of the family is lawfully present on a permanent basis with the overseas visitor whilst the overseas visitor is residing in or visiting the United Kingdom.

(6) Paragraph (5) applies to an overseas visitor who is exempt from charges under regulation 10 (reciprocal agreements), or regulation 23(1)(a) or (b) (treatment for needs arising).

(7) For the purposes of this regulation “member of the family of an overseas visitor” means—

- (a) the spouse or civil partner of an overseas visitor; or
- (b) a child in respect of whom an overseas visitor is a parent or legal guardian.

(8) None of the provisions of this regulation affect any entitlement which any member of the family of an overseas visitor may have to the provision of any relevant services by virtue of an enforceable EU right.

PART 4

REVOCATIONS AND CONSEQUENTIAL AMENDMENTS

Revocations and consequential amendments

25.—(1) The instruments specified in column (1) of Schedule 4 are revoked to the extent specified in column (3) of that Schedule.

(2) The amendments set out in Schedule 5, which are consequential on the revocation of the National Health Service (Charges to Overseas Visitors) Regulations 1989(a), have effect.

Signed by authority of the Secretary of State for Health.

21st June 2011

Anne Milton
Parliamentary Under-Secretary of State,
Department of Health

(a) S.I. 1989/306.

SCHEDULE 1

Regulation 6(d)

Diseases for which no charge is to be made for treatment

Acute encephalitis

Acute poliomyelitis

Anthrax

Botulism

Brucellosis

Cholera

Diphtheria

Enteric fever (typhoid and paratyphoid fever)

Food poisoning

Haemolytic uraemic syndrome (HUS)

Infectious bloody diarrhoea

Invasive group A streptococcal disease and scarlet fever

Invasive meningococcal disease (meningococcal meningitis, meningococcal septicaemia and other forms of invasive disease)

Legionnaires' Disease

Leprosy

Leptospirosis

Malaria

Measles

Mumps

Pandemic influenza (defined as "phase 6" in the World Health Organisation's ("WHO") influenza pandemic phases, or Influenza that might become pandemic (defined as "phase 4" or "phase 5" by WHO)

Plague

Rabies

Rubella

Severe Acute Respiratory Syndrome (SARS)

Smallpox

Tetanus

Tuberculosis

Typhus

Viral haemorrhagic fever

Viral hepatitis

Whooping cough

Yellow fever

SCHEDULE 2 Reciprocal Agreements

Regulation 10, 23(1)(b)

Anguilla

Armenia

Australia

Azerbaijan

Barbados

Belarus

Bosnia

British Virgin Islands

Croatia

Falkland Islands

Georgia

Gibraltar

Isle of Man

Israel

Jersey

Kazakhstan

Kyrgyzstan

Macedonia

Moldova

Montenegro

Montserrat

New Zealand

Russia

Serbia

St Helena

Tajikistan

Turkmenistan

Turks and Caicos Islands

Ukraine

Uzbekistan

SCHEDULE 3

Regulation 23(1)(e)

Games Family

“Games Family” – means the group of individuals who are taking part or involved in the Olympic or Paralympic Games in London 2012 (“the Games”), and who have been given a letter code for the purpose of receiving free treatment the need for which arose during the visit to the United Kingdom.

This includes the following groups:

Athletes – comprising athletes and their supporting team officials participating in the Games as accredited members of a National Olympic Committee or National Paralympic Committee delegation;

Technical officials – comprising the team of individuals that officiates the field of play and athlete areas at the Games;

Press – comprising the Games accredited representatives of photographic and written press;

Broadcasters – comprising the Olympic Broadcast Service and all the Games-related rights holding broadcasting organisations;

Olympic and Paralympic family – comprising the International Olympic Committee and International Paralympic Committee organisations (and their constituents), Chairmen and Chief Executive Officers (or equivalent).

SCHEDULE 4

Regulation 25(1)

Instruments revoked

Instruments revoked	References	Extent of revocation
The National Health Service (Charges to Overseas Visitors) Regulations 1989	S.I. 1989/306	The whole Regulations
The National Health Service (Charges to Overseas Visitors) Amendment Regulations 1991	S.I. 1991/438	The whole Regulations
The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 1994	S.I. 1994/1535	The whole Regulations
The National Health Service (Charges to Overseas Visitors) Amendment Regulations 2000	S.I. 2000/602	The whole Regulations
The National Health Service (Charges to Overseas Visitors) Amendment (No 2) Regulations 2000	S.I. 2000/909	The whole Regulations
The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2004	S.I. 2004/614	The whole Regulations
The Health and Social Care (Community Health and Standards) Act 2003 (Supplementary and Consequential Provision) (NHS Foundation Trusts) Order 2004	S.I. 2004/696	Schedule 1, paragraph 5, and Schedules 2 and 8, so far as they relate to the National Health Service (Charges to Overseas Visitors) Regulations 1989
The Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005	S.I. 2005/2114	Schedule 3, paragraph 1

The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2006	S.I. 2006/3306	The whole Regulations
The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2008	S.I. 2008/2251	The whole Regulations
The National Health Service (Charges) (Amendments Relating to Pandemic Influenza) Regulations 2009	S.I. 2009/1166	Regulation 3

SCHEDULE 5

Regulation 25(2)

Amendments Consequential on the Revocation of the National Health Service (Charges to Overseas Visitors) Regulations 1989

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

1. In the Human Tissue Act 2004 (Ethical Approval, Exceptions from Licensing and Supply of Information about Transplants) Regulations 2006(a), in Schedule 2 (receipt of transplantable material), in paragraph 10(c) after “Schedule 2 to the National Health Service (Charges to Overseas Visitors) Regulations 1989” insert “, Schedule 2 to the National Health Service (Charges to Overseas Visitors) Regulations 2011”.

Amendment of the Personal Injuries (NHS Charges) (General) and Road Traffic (NHS Charges) (Amendment) Regulations 2006

2. In the Personal Injuries (NHS Charges) (General) and Road Traffic (NHS Charges) (Amendment) Regulations 2006(b), in regulation 1(3)(interpretation)—

- (a) omit the definition of “the 1989 Regulations”; and
- (b) in the definition of “overseas visitors’ charge” for “regulation 2(1) of the 1989 Regulations” substitute “regulation 2(1) of the National Health Service (Charges to Overseas Visitors) Regulations 1989 (making and recovery of charges) or regulation 3 of the National Health Service (Charges to Overseas Visitors) Regulations 2011 (obligation to make and recover charges)”.

Amendment of the Personal Injuries (NHS Charges) (Amounts) Regulations 2007

3. In the Personal Injuries (NHS Charges)(Amounts) Regulations 2007(c), in regulation 3A(2)(a) (reduction in respect of overseas visitors’ charges), after “regulation 2(1) of the National Health Service (Charges to Overseas Visitors) Regulations 1989” insert “or regulation 3 of the National Health Service (Charges to Overseas Visitors) Regulations 2011 (obligation to make and recover charges)”.

(a) S.I. 2006/1260. There are no relevant amending instruments.

(b) S.I. 2006/3388 as amended by S.I. 2009/316.

(c) S.I. 2007/115. Regulation 3A was inserted by S.I. 2009/316.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the National Health Service (Charges to Overseas Visitors) Regulations 1989 which provide for the making and recovery of charges for relevant services provided under the National Health Service Act 2006 to certain persons not ordinarily resident in the United Kingdom (overseas visitors).

Regulation 2 defines “relevant services” to mean those services provided under section 3(1) of the National Health Service Act 2006, excluding primary medical, dental and ophthalmic services. Other new definitions include “relevant NHS body” which more accurately reflects the range of bodies who will provide relevant services, and who will be empowered to make and recover charges under these Regulations.

Regulation 3 imposes an obligation on a “relevant NHS body” to make and recover charges in respect of relevant services provided to an overseas visitor where the relevant NHS body determines that no exemption provided for in these Regulations applies. Regulation 4 provides that the overseas visitor will be liable for the payment of such charges except where the overseas visitor works on a ship, vessel or aircraft or where the overseas visitor is a child. Regulation 5 provides for repayments to be made to the overseas visitor or other person liable to pay a charge under these Regulations where a charge has been made and recovered which is not payable under these Regulations.

Regulation 6 sets out services provided to overseas visitors which are exempt from charges, including accident and emergency services, family planning services, and treatment for diseases listed in Schedule 1 to these Regulations.

Regulations 7 to 22 set out the circumstances in which an overseas visitor is exempt from charges for any relevant services.

Regulation 7 provides an exemption for an overseas visitor who has lawfully resided in the United Kingdom for at least twelve months. Regulation 8 exempts an overseas visitor who is present in the United Kingdom (or designated areas) for a specified purpose, such as employment. Regulation 9 provides exemption for an overseas visitor who is entitled to the services in question by virtue of an enforceable European Union right. Regulation 10 provides an exemption for services provided to an overseas visitor where those services are covered by the terms of a reciprocal agreement made between the United Kingdom and a country listed in Schedule 2.

Regulations 11 to 15 provide exemptions in certain circumstances for refugees, asylum seekers and children in care, for cases involving human trafficking, for exceptional humanitarian reasons, for diplomats and NATO forces. Regulations 16 and 17 provide exemptions from charges for United Kingdom pensioners who reside in another EEA State or Switzerland for a period not exceeding six months each year, and for those receiving any pension or other benefits paid under certain war or armed forces compensation schemes. Regulation 18 provides an exemption for members of the United Kingdom forces, other Crown servants, and others employed by certain public bodies. Regulations 19 to 22 provide exemptions in certain circumstances for former United Kingdom residents working overseas, missionaries, persons imprisoned or detained under specified enactments and employees on ships.

Regulation 23 sets out the circumstances in which an overseas visitor will be exempt from charges for relevant services the need for which arose during the overseas visitor’s visit to the United Kingdom. In particular regulation 23(1)(e) provides for an exemption for individuals who are part of the Games Family during the Olympic and Paralympic Games in London 2012 between 9th July 2012 and 12th September 2012.

Regulation 24 sets out the basis on which a family member of an overseas visitor may also be exempt from charges for relevant services.

Regulation 25 and Schedules 4 and 5 make consequential revocations and amendments to other legislation, as a result of the consolidation effected by these Regulations.

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The National Health Service (Charges to Overseas Visitors)
Regulations 2011

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