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STATUTORY RULES OF NORTHERN IRELAND

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**2013 No. 302**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**Provision of Health Services to Persons not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2013**

*Made - - - - 19th December 2013*

*Coming into operation 27th December 2013*

The Department of Health, Social Services and Public Safety<sup>(1)</sup>, in exercise of the powers conferred by Articles 42, 106(b) and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(2)</sup>, in conjunction with the Department of Finance and Personnel, makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Provision of Health Services to Persons not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2013 and shall come into operation on 27th December 2013.

(2) In these Regulations, “the principal Regulations” means the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005<sup>(3)</sup>.

**Amendment of regulation 2 of the principal Regulations**

2. In regulation 2 (Interpretation) of the principal Regulations—

(a) insert the following definitions at the appropriate place in alphabetical order—

“Directive 2011/24/EU” means Directive 2011/24/EU of the European Parliament and of the Council of 9th March 2011 on the application of patients’ rights in cross-border healthcare<sup>(4)</sup>;

“GMS Contracts Regulations” means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004<sup>(5)</sup>;

“out of hours period” means—

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(1) See S.I. 1999/283 (N.I. 1) Article 3(6)

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

(3) S.R. 2005 No. 551 as amended by S.R. 2008 No. 377

(4) OJNo. L88, 4.4.2011, p45.

(5) S.R. 2004 No. 140 as amended by S.R. 2004 No. 477, S.R. 2005 No. 230, S.R. 2005 No. 368, S.R. 2006 No. 319, S.R. 2013 No.59

- (a) the period beginning at 6.30pm on any day from, and including, Monday to Thursday and ending at 8am on the following day;
- (b) the period between 6.30pm on, and including, Friday and 8am on the following Monday; and
- (c) any public holiday or local holiday agreed with the Board;

and “part” of an out of hours period means any part of any one or more of the periods described in paragraphs (a) to (c);

“out of hours services” means services required to be provided in all or part of the out of hours period which would be services available to visiting patients under regulation 15(3) and (5) of the GMS Contracts Regulations, if provided in core hours;

“Personal Dental Services” means dental services of a kind that may be provided by a general dental practitioner in accordance with Part VI of the Order;

“Primary Medical Services” means services of a kind that may be provided by a general medical practitioner in accordance with arrangements under Article 57A of the Order;

“visiting patient” means an individual for whom a member State other than the United Kingdom is the member State of Affiliation within the meaning of Article 3(c) of Directive 2011/24/EU;”.

- (b) for the definition of “Board” substitute the following definition “Board” means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(6).

### **Insertion of regulation 2A**

3. After regulation 2 of the principal Regulations insert the following regulation—

#### **“Visitors to whom services forming part of health services shall be available**

2A. Services forming part of health services shall be available to any visitor at a charge determined by the Department, subject to regulations 3 to 8A.”.

### **Amendment of regulation 3 of the principal Regulations**

4.—(1) Regulation 3 of the principal Regulations shall be amended as provided by paragraphs (2) to (4).

(2) For the heading “**Visitors to whom services forming part of health services shall be available**”, substitute “**Visitors exempt from charges**”.

(3) For the words “Services forming part of health services shall be available to a visitor” substitute—

“(1) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who falls within the following sub-paragraphs—”

(4) After paragraph (1) insert the following paragraphs—

“(2) A visitor shall only be exempt from charges to the extent that charges would not be payable by a person ordinarily resident in Northern Ireland.

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

(4) Where it is established that a visitor does not meet the residence qualification in sub-paragraph 1(c) and that visitor has already received services as part of a course of treatment on the basis that no charges would be made, no charges may be made for the remainder of that course of treatment.

(5) No charge shall be made in respect of any services forming part of health services provided for—

- (a) in the case where sub-paragraph (h), (i), (j), (k), (r) or (s) of paragraph (1) applies to a visitor, the spouse, civil partner or child of the visitor; or
- (b) spouse, civil partner or child of the visitor, if the spouse, civil partner or child lives on a permanent basis with the visitor in the United Kingdom.”.

### **Insertion of regulation 8B**

5. After regulation 8A of the principal Regulations insert the following regulation—

#### **“General health services available to visiting patients under Directive 2011/24/EU**

**8B.**—(1) This regulation applies to a visiting patient exercising rights under Directive 2011/24/EU.

(2) Primary medical services shall be available to those visiting patients in accordance with regulation 15(3) and (5) of the GMS Contracts Regulations.

(3) General dental services shall be available to those visiting patients in accordance with paragraph 3(2)(b)(v) of Schedule 2 to the General Dental Services Regulations (Northern Ireland) 1993(7).

(4) Personal dental services shall be available to those visiting patients in accordance with a pilot scheme established under Article 3(1) of the Health Service (Primary Care) (Northern Ireland) Order 1997(8).

(5) Out of hours services shall be available to those visiting patients in accordance with arrangements under Article 56(1) of the Order between the Board and out of hours providers.

(6) Where the services mentioned in paragraphs (2) to (5) are provided to a visiting patient, the charge is such as may be determined by the Department.”.

### **Revocations**

6. In the principal Regulations the following provisions shall be revoked—

- (a) paragraphs (1) to (4) of regulation 4.
- (b) regulation 8.

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(7) S.R. 1993 No. 326 – Paragraph 3(2)(b)(v) of Schedule 2 was inserted by S.R. 2013 No. 300

(8) S.I. 1997/1177 (N.I. 7)

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on  
19th December 2013

(L.S.)

*Heather Stevens*  
A senior officer of the Department of Health,  
Social Services and Public Safety

Sealed with the Official Seal of the Department of Finance and Personnel on 19th December 2013

(L.S.)

*John McKibbin*  
A senior officer of the Department of Finance  
and Personnel

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005 (“the principal Regulations”), which make provision as to the entitlement of, and exemptions from charges for services forming part of health services which may be provided to visitors in Northern Ireland.

Regulation 2 inserts definitions of terms used in new regulation 8B.

Regulation 3 inserts new regulation 2A into the principal Regulations which provides that services forming part of the health services (secondary care services) shall be available to any visitor, at a charge determined by the Department.

Regulation 4 amends the heading to Regulation 3 of the principal Regulations and inserts paragraphs (2) to (5).

Regulation 5 prescribes certain general health services which shall be available to visiting patients exercising rights under Directive 2011/24EU on the application of patients’ rights in cross-border healthcare. Where these services are provided to a visiting patient, the charge is such as may be determined by the Department.

Regulation 6 provides for Revocations to the principal Regulations.