
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 27

**Provision of Health Services to Persons Not Ordinarily
Resident Regulations (Northern Ireland) 2015**

PART 2

SERVICES FORMING PART OF HEALTH SERVICES

Visitors to whom services forming part of health services shall be available

3. Services forming part of health services shall be available to any visitor at a charge determined by the Department, subject to regulations 4 to 23.

Services exempt from charges

4.—(1) Subject to paragraph (2), no charge may be made or recovered in respect of any services forming part of health services provided to a 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, or elsewhere, but not including any services provided—
 - (i) after the 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;
- (c) family planning services;
- (d) treatment in respect of a disease listed in Schedule 1;
- (e) treatment for sexually transmitted infections;
- (f) treatment in respect of infection with any Human Immunodeficiency Virus;
- (g) services provided to a visitor who is liable to be detained in a hospital or, received into guardianship under the Mental Health (Northern Ireland) Order 1986(1) or any other transferred provision authorising orders for admission to, and detention in, hospital by reason of mental disorder; or
- (h) 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 (g) does not apply.

(2) The services listed in paragraph (1)(a) – (h) are not exempt from charge if it appears that the visitor has travelled to Northern Ireland specifically to receive those services.

Visitors exempt from charges – lawful residence for 12 months

5.—(1) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who has resided lawfully in the United Kingdom for a period of not less than twelve 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 11 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.

Visitors exempt from charges – presence for work, study etc, or to settle

6.—(1) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who the Board or HSC trust is satisfied would be present for any purpose specified in paragraph (2)—

- (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

if that visitor was present in Northern Ireland while being provided with the services forming part of health services.

(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 to which Article 71 (arrangements with and assistance to voluntary organisations) of the Order applies, or 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(2);
- (d) pursuing a full time course of study which is—
 - (i) substantially funded by the Northern Ireland departments, the Secretary of State, the Welsh Ministers or the Scottish Ministers; or
 - (ii) of at least six months duration; or
- (e) taking up permanent residence in the United Kingdom.

Visitors exempt from charges – EU Rights

7. No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who has entitlement to the provision of the services in question at no charge 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(3).

Visitors exempt from charges – reciprocal agreements

8. No charge may be made or recovered in respect of any services forming part of health services provided to a visitor where those services are provided in circumstances covered by a reciprocal agreement with a country or territory specified in Schedule 2.

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

9. No charge may be made or recovered in respect of any services forming part of health services provided to a 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(4);
- (b) has made an application to be granted temporary protection, asylum or humanitarian protection under those rules; or
- (c) is a child, taken into the care of an authority under the Children (Northern Ireland) Order 1995(5).

Visitors exempt from charges - human trafficking

10.—(1) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor, where the competent authorities—

- (a) consider 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(6).

Visitors exempt from charges – exceptional humanitarian reasons

11.—(1) Where a 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 services forming part of health services, and the Department determines exceptional humanitarian reasons justify it, then no charge may be made or recovered in respect of that visitor and that course of treatment.

(2) Such a determination may only be made by the Department if it is satisfied in the case of that 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

(3) 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)

(4) 1971 c. 77

(5) S.I. 1995/755 (N.I. 2)

(6) 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

- (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.

Visitors exempt from charges – diplomats

12. No charge may be made or recovered in respect of any services forming part of health services provided to a 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(7).

Visitor exempt from charges – NATO forces

13.—(1) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who is a person to whom Article IX(5) of the North Atlantic Treaty Organisation Status of Forces Agreement(8) applies.

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

Visitors exempt from charges – long term visits by United Kingdom pensioners

14. No charge may be made or recovered in respect of any services forming part of health services provided to a visitor whilst in the United Kingdom who is—

- (a) in receipt of a retirement pension under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(9) or the Social Security Contributions and Benefits Act 1992(10);
- (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.

Visitors exempt from charges – war pensioners and armed forces compensation scheme payment recipients

15. No charge may be made or recovered in respect of any services forming part of health services provided to a 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 (Northern Ireland)1979(11); 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(12).

(7) 1964 c.81

(8) 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

(9) 1992 c. 7

(10) 1992 c 4

(11) S.R. 1979 No. 242 as amended by S.R. 1980 No. 451

(12) S.I. 2011/517

Visitors exempt from charges – Her Majesty’s United Kingdom Forces, Crown servants and others

16. No charge may be made or recovered in respect of any services forming part of health services provided to a 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;
- (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.

Visitors exempt from charges – former residents working overseas

17. No charge may be made or recovered in respect of any services forming part of health services provided to a 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.

Visitors exempt from charges – missionaries

18. No charge may be made or recovered in respect of any services forming part of health services provided to a 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.

Visitors exempt from charges – prisoners and detainees

19. No charge may be made or recovered in respect of any services forming part of health services provided to a visitor—

- (a) who is detained in prison or in a young offenders centre provided by the Department of Justice under the Prison Act (Northern Ireland) 1953⁽¹³⁾ as extended by section 2 of the Treatment of Offenders Act (Northern Ireland) 1968⁽¹⁴⁾ or in a juvenile justice centre provided under Article 51 of the Criminal Justice (Children) (Northern Ireland) Order 1998⁽¹⁵⁾; 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⁽¹⁶⁾;

⁽¹³⁾ 1953 c. 18 (N.I.)

⁽¹⁴⁾ 1968 c. 29 (N.I.)

⁽¹⁵⁾ S.I. 1998/1504 (N.I. 9)

⁽¹⁶⁾ 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

- (ii) section 62 (detention by Secretary of State) of the Nationality, Immigration and Asylum Act 2002⁽¹⁷⁾;
- (iii) section 40(7)(c) (searches: contracting out) of the Immigration, Asylum and Nationality Act 2006⁽¹⁸⁾;
- (iv) section 2 (detention) or 36 (detention) of the UK Borders Act 2007⁽¹⁹⁾.

Visitors exempt from charges – employees on ships

20. No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who is employed on a ship or vessel registered in the United Kingdom.

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

21.—(1) No charge may be made or recovered in respect of any services forming part of health services, consisting of treatment the need for which arose during the visit, provided to a visitor who is any of the following—

- (a) in receipt of a pension or benefit under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 or the Social Security Contributions and Benefits 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⁽²⁰⁾ or the European Social Charter 1961⁽²¹⁾ and is—
 - (i) lawfully present in the United Kingdom; and
 - (ii) without sufficient resources to pay the charge; or
- (d) an authorised child or an authorised companion.

(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.

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.

⁽¹⁷⁾ 2002 c. 41.

⁽¹⁸⁾ 2006 c. 13.

⁽¹⁹⁾ 2007 c. 30.

⁽²⁰⁾ Cmd. 9512. The European Convention on Social and Medical Assistance (CETS No. 14) was opened for signature in Paris on 11th December 1953.

⁽²¹⁾ 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.

Family members of visitors

22.—(1) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who is a member of the family of another visitor and is lawfully present in the United Kingdom if the other visitor is exempt from charges under any of the following regulations—

- (a) regulation 10 (human trafficking);
- (b) regulation 13 (NATO forces);
- (c) regulation 16 (Her Majesty’s United Kingdom Forces, Crown servants and others);
- (d) regulation 18 (missionaries).

(2) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who is a member of the family of another visitor and is lawfully present on a permanent basis with that other visitor whilst that other visitor is residing in or visiting the United Kingdom, if that other visitor is exempt from charges under any of the following regulations—

- (a) regulation 5 (lawful residence for 12 months);
- (b) regulation 6 (presence for work, study etc, or to settle);
- (c) regulation 7 (EU Rights);
- (d) regulation 9(a) (refugees);
- (e) regulation 12 (diplomats);
- (f) regulation 14 (long term visits by United Kingdom pensioners);
- (g) regulation 15 (war pensioners and armed forces compensation scheme payment recipients);
- (h) regulation 17 (former residents working overseas);
- (i) regulation 19 (prisoners and detainees);
- (j) regulation 20 (employees on ships).

(3) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who is a member of the family of another visitor and is present with that other visitor whilst that other visitor is residing in or visiting the United Kingdom, if that other visitor is exempt from charges under—

- (a) regulation 9(b) (asylum seekers).

(4) No charge may be made or recovered in respect of any services forming part of health services consisting of treatment the need for which arose during the visit, provided to a visitor who is a member of the family of another visitor and is lawfully present on a permanent basis with that other visitor whilst that other visitor is residing in or visiting the United Kingdom, if that other visitor is exempt from charges under regulation 8 (reciprocal agreements), or regulation 21(1) (a) or (b) (treatment the need for which arose during the visit only).

(5) For the purposes of this regulation “member of the family of a visitor” means—

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

(6) None of the provisions in this regulation affect any entitlement which any member of the family of a visitor may have to the provision of any services forming part of health services by virtue of an enforceable EU right or any other exemption which they may be entitled to in their own right.

Extent of exemption from charges

23. Notwithstanding any provision in these Regulations, 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.