

EXPLANATORY MEMORANDUM TO
THE NATIONAL HEALTH SERVICE (CHARGES TO OVERSEAS VISITORS)
(AMENDMENT) REGULATIONS 2020

2020 No. 59

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends the National Health Service (Charges to Overseas Visitors) Regulations 2015 (S.I. 2015/238) (the 2015 Regulations) and subsequent amendments.
- 2.2 This instrument ensures that certain NHS services for any overseas visitor who requires diagnosis or treatment for Wuhan novel coronavirus (2019-nCoV) is provided without charge to that overseas visitor.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument comes into force the day after it is laid, in breach of the 21 day rule, so that the health service can quickly respond if the new strain of Wuhan novel coronavirus (2019-nCoV) becomes more widespread in the country. We are bringing these provisions forward now, in advance of cases of the Wuhan novel coronavirus (2019-nCoV) being confirmed in the UK, so that the health service can take steps in preparation and in the knowledge that they are not breaking the law.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The 2015 Regulations provide for relevant NHS and other bodies in England to make and recover charges from overseas visitors (anyone not ordinarily resident in the UK) for certain NHS services provided to them, unless the overseas visitor, or the service they receive, is covered by one of a number of exemption categories as set out in the regulations.
- 6.2 This instrument amends the 2015 Regulations for the purpose of creating a new exemption from charges for overseas visitors in relation to the diagnosis and treatment of Wuhan novel coronavirus (2019-nCoV).

7. Policy background

What is being done and why?

- 7.1 The changes made by this instrument form part of the Government's strategy for ensuring the continued availability of, and easy access to, NHS treatment in England during an emergency occasioned by a pandemic.
- 7.2 These Regulations amend the 2015 Regulations and subsequent amendments.
- 7.3 Section 175 of the National Health Service Act 2006 (the 2006 Act) authorises the Secretary of State to make regulations for the making and recovery of charges from persons not ordinarily resident in Great Britain for NHS services, including that charges may only be made in such cases as may be determined in accordance with the regulations.
- 7.4 The regulations ensure that the NHS, which is supported by the British taxpayer, receives the requisite contribution from overseas visitors towards the cost of care that they receive, should they use NHS services. The overarching aim is to safeguard the long-term sustainability of the NHS in England.
- 7.5 The amending instrument amends the 2015 Regulations to create a new exemption from charging for certain NHS services where diagnosis or treatment is provided to overseas visitors in response to an outbreak of Wuhan novel coronavirus (2019-nCoV).
- 7.6 The amending instrument amends the 2015 Regulations, in relation to England, to add Wuhan novel coronavirus (2019-nCoV) to the list of diseases (such as tuberculosis and Severe Acute Respiratory Syndrome (SARS)) in respect of which no charge is to be made or recovered. This is to ensure that there is no financial barrier to overseas visitors in England being given NHS hospital treatment for Wuhan novel coronavirus (2019-nCoV), thus ensuring that the risk to public health from symptomatic visitors is minimised.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The instrument does not consolidate legislation and there are no plans to do so at this time.

10. Consultation outcome

- 10.1 There has been no public consultation in relation to this instrument.
- 10.2 Charging policy is a devolved matter. The Devolved Administrations have been engaged in relation to the changes in this instrument but are responsible for taking forward any amendments to charging regulations in Scotland, Wales and Northern Ireland. This instrument makes no provision that could otherwise fall within devolved competence.

11. Guidance

- 11.1 The Department of Health and Social Care, working with Public Health England and NHS England, will provide guidance to those who will be involved in the operation of these changes and the protection of public health during any outbreak of Wuhan novel coronavirus (2019-nCoV) in England.
- 11.2 Queries from the NHS and the public on the Regulations can be taken at nhscostrerecovery@dhsc.gov.uk, Room 2S15, Quarry House, Leeds, LS2 7UE.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is that relevant bodies providing certain NHS services will have different obligations in respect of the making and recovery of charges from overseas visitors, but only in the context of the diagnosis and treatment of Wuhan novel coronavirus (2019-nCoV). The changes benefit patient care by providing access without charge by patients to the treatment and medicines they require.
- 12.3 An Impact Assessment has not been prepared in relation to this instrument.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Department of Health and Social Care will monitor those provisions for their effectiveness in supporting the health service response to a pandemic and review them once pandemic alert levels have returned to normal.

15. Contact

- 15.1 Craig Keenan at the Department of Health and Social Care Telephone: 0113 254 6438 or email: Craig.Keenan@dhsc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Tim Brown, Deputy Director for NHS Cost Recovery, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Edward Argar, Minister of State for Health at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.