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WELSH STATUTORY  
INSTRUMENTS

**2019 Rhif 1061 (Cy. 188)**

**2019 No. 1061 (W. 188)**

**YMADAEL Â'R UNDEB  
EWROPEAIDD, CYMRU**

**EXITING THE EUROPEAN  
UNION, WALES**

**Y GWASANAETH IECHYD  
GWLADOL, CYMRU**

**NATIONAL HEALTH  
SERVICE, WALES**

Rheoliadau'r Gwasanaeth Iechyd  
Gwladol (Ffioedd Ymwelwyr  
Tramor) (Diwygio) (Cymru)  
(Ymadael â'r UE) 2019

The National Health Service  
(Charges to Overseas Visitors)  
(Amendment) (Wales) (EU Exit)  
Regulations 2019

**NODYN ESBONIADOL**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

Mae'r Rheoliadau hyn yn diwygio Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Ymwelwyr Tramor) 1989 ("y Prif Reoliadau"), sy'n darparu ar gyfer codi ac adennill ffioedd am wasanaethau perthnasol a ddarperir o dan Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42) i bersonau penodol nad ydynt yn preswyl fel arfer yn y Deyrnas Unedig.

Mae rheoliad 1 yn cynnwys darpariaethau cychwyn, cymhwyso a dehongli. Daw'r Rheoliadau i rym ar y diwrnod ymadael, fel y diffinnir "exit day" yn Atodlen 1 i Ddeddf Dehongli 1978 (p. 30).

Mae rheoliad 2 yn diwygio rheoliad 1 o'r Prif Reoliadau i fewnosod diffiniadau o "Regulation (EC) No 883/2004", "Regulation (EEC) No 1408/71" a "relevant services". Mae hefyd yn diwygio'r diffiniad presennol o "member of the family".

Mae rheoliad 3 yn diwygio rheoliad 4 o'r Prif Reoliadau i ddarparu esemptiad rhag ffioedd ar gyfer ymwelwyr tramor o dan amgylchiadau pan fo hyn wedi ei gwmpasu gan gytundeb cilyddol ag un o wladwriaethau'r AEE neu'r Swistir a ddaw'n effeithiol ar neu ar ôl y diwrnod ymadael.

**EXPLANATORY NOTE**

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

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 ("the Principal Regulations"), which provide for the making and recovery of charges for relevant services provided under the National Health Service (Wales) Act 2006 (c. 42) to certain persons not ordinarily resident in the United Kingdom.

Regulation 1 contains commencement, application and interpretation provisions. The Regulations come into force on exit day, as defined in Schedule 1 to the Interpretation Act 1978 (c. 30).

Regulation 2 amends regulation 1 of the Principal Regulations to insert definitions of "Regulation (EC) No 883/2004", "Regulation (EEC) No 1408/71" and "relevant services". It also amends the existing definition of a "member of the family".

Regulation 3 amends regulation 4 of the Principal Regulations to provide an exemption from charges for overseas visitors in circumstances where this is captured by a reciprocal agreement with an EEA state or Switzerland which comes into effect on or after exit day.

Mae rheoliad 4 yn diwygio rheoliad 4A o'r Prif Reoliadau i adlewyrchu'r ffaith na fydd y term "Member state" yn cwmpasu'r Deyrnas Unedig ar ôl y diwrnod ymadael.

Mae rheoliad 5 yn mewnosod rheoliadau newydd 4B a 4C yn y Prif Reoliadau.

Mae rheoliad 4B yn esemptio ymwelwyr tramor rhag ffioedd os ydynt yn preswyl fel arfer yn un o wladwriaethau'r AEE neu'r Swistir, os oeddent yn preswyl fel arfer yno cyn y diwrnod ymadael ac os oedd ganddynt ddogfen gofal iechyd cilyddol a ddyroddir gan y DU (tystysgrif gofal iechyd S1 neu A1, Cerdyn Yswiriant Iechyd Ewropeaidd neu ddogfen gyfatebol) neu y byddent wedi bod yn gymwys i wneud hynny pe na bai'r diwrnod ymadael wedi digwydd pan ddarperid y driniaeth.

Mae rheoliad 4C yn darparu esemptiad rhag ffioedd ar gyfer gweithwyr trawsffiniol sy'n gweithio yn y Deyrnas Unedig (ac a ddechreuodd wneud hynny cyn y diwrnod ymadael) ond sy'n preswyl yn un o wladwriaethau'r AEE neu'r Swistir, a'u bod yn dychwelyd yno o leiaf unwaith yr wythnos.

Mae rheoliad 6 yn diwygio rheoliad 5 o'r Prif Reoliadau drwy ychwanegu "a British citizen" at y categorïau o bersonau a fydd wedi eu hesemptio rhag ffioedd am driniaeth y mae'r angen amdani yn codi ar ôl y diwrnod ymadael.

Mae rheoliad 7 yn mewnosod rheoliad newydd 5A yn y Prif Reoliadau. Mae'r rheoliad newydd yn darparu esemptiad rhag ffioedd a fydd yn gymwys ar sail drosiannol i ymwelwyr tramor o un o wladwriaethau'r AEE neu'r Swistir ar neu ar ôl y diwrnod ymadael o dan amgylchiadau pan fo cwrs o driniaeth wedi ei awdurdodi cyn y diwrnod ymadael yn unol â Rheoliad (EC) Rhif 883/2004 neu Reoliad (EEC) Rhif 1408/71.

Mae rheoliad 8 yn ychwanegu Liechtenstein, Norwy, y Swistir ac Ynysoedd Ffarøe at y rhestr o wledydd yn Atodlen 2 i'r Prif Reoliadau sy'n ymwneud â chytundebau cilyddol.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth yr Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

Regulation 4 amends regulation 4A of the Principal Regulations to reflect the fact that the term "Member state" will not capture the United Kingdom after exit day.

Regulation 5 inserts new regulations 4B and 4C into the Principal Regulations.

Regulation 4B exempts overseas visitors from charges if they are ordinarily resident in an EEA state or Switzerland, were ordinarily resident there before exit day and either held a UK-issued reciprocal healthcare document (an S1 or A1 healthcare certificate, European Health Insurance Card or equivalent document) or would have been eligible to do so if, when the treatment was provided, exit day had not occurred.

Regulation 4C provides an exemption from charges for frontier workers who work in the United Kingdom (and began doing so before exit day) but reside in an EEA state or Switzerland, to which they return at least once a week.

Regulation 6 amends regulation 5 of the Principal Regulations by adding "a British citizen" to the categories of persons who will be exempt from charges for needs arising treatment after exit day.

Regulation 7 inserts a new regulation 5A into the Principal Regulations. The new regulation provides an exemption from charges which will apply on a transitional basis to overseas visitors from an EEA state or Switzerland on or after exit day in circumstances where a course of treatment was authorised before exit day in accordance with Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71.

Regulation 8 adds the Faroe Islands, Liechtenstein, Norway and Switzerland to the list of countries in Schedule 2 to the Principal Regulations which concerns reciprocal agreements.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Service, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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Regulations 2019

*Gwnaed* 26 Mehefin 2019

*Made* 26 June 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol  
Cymru* 28 Mehefin 2019

*Laid before the National Assembly for Wales*  
28 June 2019

*Yn dod i rym yn unol â rheoliad 1(2)*

*Coming into force in accordance with  
regulation 1(2)*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adrannau 124, a 203(9) a (10) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006(1).

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 124, and 203(9) and (10) of the National Health Service (Wales) Act 2006(1).

**Enwi, cychwyn, cymhwyso a dehongli**

**Title, commencement, application and interpretation**

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Ymwelwyr Tramor) (Diwygio) (Cymru) (Ymadael â'r UE) 2019.

1.—(1) The title of these Regulations is the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) (EU Exit) Regulations 2019.

(2) Daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

(2) These Regulations come into force on exit day.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(3) These Regulations apply in relation to Wales.

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(1) 2006 p. 42.

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(1) 2006 c. 42.

(4) Yn y Rheoliadau hyn, ystyr “y Prif Reoliadau” yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Ymwelwyr Tramor) 1989(1).

## Diwygio rheoliad 1

2.—(1) Mae rheoliad 1(2) (enwi, cychwyn a dehongli) o'r Prif Reoliadau wedi ei ddiwygio fel a ganlyn.

(2) Yn y lle priodol mewnosoder—

- (a) ““Regulation (EC) No 883/2004” means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems as it had effect immediately before exit day(2);”;
- (b) ““Regulation (EEC) No 1408/71” means Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community as it had effect immediately before exit day(3);”;
- (c) ““relevant services” means accommodation, services or facilities(4) which are provided, or whose provision is arranged, under the National Health Service (Wales) Act 2006(5) other than—
  - (a) primary medical services provided under Part 4 (medical services);
  - (b) primary dental services provided under Part 5 (dental services);
  - (c) primary ophthalmic services provided under Part 6 (ophthalmic services); or

(4) In these Regulations, “the Principal Regulations” means the National Health Service (Charges to Overseas Visitors) Regulations 1989(1).

## Amendment of regulation 1

2.—(1) Regulation 1(2) (citation, commencement and interpretation) of the Principal Regulations is amended as follows.

(2) At the appropriate place insert—

- (a) ““Regulation (EC) No 883/2004” means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems as it had effect immediately before exit day(2);”;
- (b) ““Regulation (EEC) No 1408/71” means Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community as it had effect immediately before exit day(3);”;
- (c) ““relevant services” means accommodation, services or facilities(4) which are provided, or whose provision is arranged, under the National Health Service (Wales) Act 2006(5) other than—
  - (a) primary medical services provided under Part 4 (medical services);
  - (b) primary dental services provided under Part 5 (dental services);
  - (c) primary ophthalmic services provided under Part 6 (ophthalmic services); or

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(1) O.S. 1989/306, a ddiwygiwyd gan O.S. 2004/614; O.S. 2004/1433 (Cy. 146); O.S. 2009/1824 (Cy. 165); O.S. 2009/3005 (Cy. 264); O.S. 2010/730 (Cy. 71); O.S. 2010/927 (Cy. 94); O.S. 2011/1043; O.S. 2011/2906 (Cy. 310); O.S. 2012/1809; O.S. 2014/1622 (Cy. 166); ac O.S. 2015/1985; mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol i'r Rheoliadau hyn.

(2) OJ Rhif L 166, 30.4.2004, t. 1. Mae'r Rheoliad hwn gan yr UE wedi ei ddiwygio gan offerynnau amrywiol gan yr UE, yn ddiweddaraf gan Reoliad y Comisiwn (EU) 2017/492 dyddiedig 21 Mawrth 2017 (OJ Rhif L 76, 22.3.2017, t. 13).

(3) OJ Rhif L 149, 5.7.1971, t. 2. Diddymwyd Rheoliad (EEC) Rhif 1408/71 gan Reoliad (EC) Rhif 883/2004 ond wedi ei arbed at ddibenion penodol. Mae Rheoliad (EEC) Rhif 1408/71 wedi ei ddiwygio gan offerynnau amrywiol gan yr UE ac fe'i hailddatganwyd yn Rhan 1 o Atodiad A o Reoliad y Cyngor (EC) Rhif 118/97 dyddiedig 2 Rhagfyr 1996 (OJ Rhif L 28, 30.1.1997, t. 1). Mae wedi ei ddiwygio'n ddiweddaraf gan Reoliad (EC) Rhif 592/2008 Senedd Ewrop a'r Cyngor dyddiedig 17 Mehefin 2008 (OJ Rhif L 177, 4.7.2008, t. 1).

(4) Diffinnir “facilities” yn adran 206(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006.

(5) 2006 p. 42.

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(1) S.I. 1989/306, amended by S.I. 2004/614; S.I. 2004/1433 (W. 146); S.I. 2009/1824 (W. 165); S.I. 2009/3005 (W. 264); S.I. 2010/730 (W. 71); S.I. 2010/927 (W. 94); S.I. 2011/1043; S.I. 2011/2906 (W. 310); S.I. 2012/1809; S.I. 2014/1622 (W. 166); and S.I. 2015/1985; there are other amending instruments but none is relevant to these Regulations.

(2) OJ No. L 166, 30.4.2004, p. 1. This EU Regulation has been amended by various EU instruments, most recently by Commission Regulation (EU) 2017/492 of 21 March 2017 (OJ No. L 76, 22.3.2017, p. 13).

(3) OJ No. L 149, 5.7.1971, p. 2. Regulation (EEC) No 1408/71 was repealed by Regulation (EC) No 883/2004 but saved for certain purposes. Regulation (EEC) No 1408/71 has been amended by various EU instruments and was restated in Part 1 of Annex A of Council Regulation (EC) No 118/97 of 2 December 1996 (OJ No. L 28, 30.1.1997, p. 1). It has most recently been amended by Regulation (EC) No 592/2008 of the European Parliament and of the Council of 17 June 2008 (OJ No. L 177, 4.7.2008, p. 1).

(4) “Facilities” is defined in section 206(1) of the National Health Service (Wales) Act 2006.

(5) 2006 c. 42.

(d) equivalent services which are provided, or whose provision is arranged, under that Act;”.

(3) Yn lle’r diffiniad o “member of the family” rhodder—

““member of the family” has the same meaning as in Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71 as the case may be;”.

#### **Diwygio rheoliad 4**

3.—(1) Mae rheoliad 4(1) (ymwelwyr tramor sydd wedi eu hesemptio rhag ffioedd) o’r Prif Reoliadau wedi ei ddiwygio fel a ganlyn.

(2) Yn is-baragraff (l), yn lle “another” rhodder “a”.

(3) Yn is-baragraff (m), ar ôl “member state” mewnosoder “or a British citizen”.

(4) Yn lle is-baragraff (o) rhodder—

“(o) in whose case the services are provided in circumstances covered by a reciprocal agreement—

- (i) with a country or territory specified in Schedule 2; or
- (ii) with an EEA state or Switzerland where that agreement comes into effect on or after exit day;”.

#### **Diwygio rheoliad 4A**

4.—(1) Mae rheoliad 4A(1) (esemptiad rhag ffioedd yn ystod ymweliadau hirdymor gan bensiynwyr y Deyrnas Unedig) o’r Prif Reoliadau wedi ei ddiwygio fel a ganlyn.

(2) Yn is-baragraff (b), yn lle “another” rhodder “a”.

(3) Yn is-baragraff (c), yn lle “another” rhodder “a”.

#### **Rheoliadau newydd 4B a 4C**

5. Ar ôl rheoliad 4A (esemptiad rhag ffioedd yn ystod ymweliadau hirdymor gan bensiynwyr y Deyrnas Unedig) o’r Prif Reoliadau mewnosoder—

#### **“Overseas visitors with UK reciprocal healthcare entitlements before exit day**

4B.—(1) No charge may be made or recovered in respect of any relevant services provided on or after exit day to an overseas visitor who is ordinarily resident in an EEA state or Switzerland, was ordinarily resident there immediately before exit day and either—

(d) equivalent services which are provided, or whose provision is arranged, under that Act;”.

(3) For the definition of “member of the family” substitute—

““member of the family” has the same meaning as in Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71 as the case may be;”.

#### **Amendment of regulation 4**

3.—(1) Regulation 4(1) (overseas visitors exempt from charges) of the Principal Regulations is amended as follows.

(2) In sub-paragraph (l), for “another” substitute “a”.

(3) In sub-paragraph (m), after “member state” insert “or a British citizen”.

(4) For sub-paragraph (o) substitute—

“(o) in whose case the services are provided in circumstances covered by a reciprocal agreement—

- (i) with a country or territory specified in Schedule 2; or
- (ii) with an EEA state or Switzerland where that agreement comes into effect on or after exit day;”.

#### **Amendment of regulation 4A**

4.—(1) Regulation 4A(1) (exemption from charges during long term visits by United Kingdom pensioners) of the Principal Regulations is amended as follows.

(2) In sub-paragraph (b), for “another” substitute “a”.

(3) In sub-paragraph (c), for “another” substitute “a”.

#### **New regulations 4B and 4C**

5. After regulation 4A (exemption from charges during long term visits by United Kingdom pensioners) of the Principal Regulations insert—

#### **“Overseas visitors with UK reciprocal healthcare entitlements before exit day**

4B.—(1) No charge may be made or recovered in respect of any relevant services provided on or after exit day to an overseas visitor who is ordinarily resident in an EEA state or Switzerland, was ordinarily resident there immediately before exit day and either—

- (a) immediately before exit day held a valid UK reciprocal healthcare document; or
- (b) at the time that the treatment which constitutes the relevant services was provided, would have been eligible to be issued with a UK reciprocal healthcare document if exit day had not occurred.

(2) Paragraph (1) does not apply to a frontier worker or a member of the family of a frontier worker.

(3) In this regulation—

“competent institution” has the same meaning as in Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71 as the case may be;

“frontier worker” has the same meaning as in Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71 as the case may be;

“UK reciprocal healthcare document” means an S1 healthcare certificate, A1 healthcare certificate, European Health Insurance Card or equivalent document issued by a competent institution of the United Kingdom.

### Frontier workers

4C.—(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 a relevant frontier worker.

(2) In paragraph (1) “a relevant frontier worker” means a person who—

- (a) on or after exit day, is pursuing in the United Kingdom an activity as an employed or self-employed person which the person began to pursue there before exit day;
- (b) resides in an EEA state or Switzerland; and
- (c) returns to their residence in that EEA state or Switzerland (as the case may be) at least once a week.”

### Diwygio rheoliad 5

6. Yn rheoliad 5(a) (esemptiad rhag ffioedd am driniaeth y cododd yr angen amdani yn ystod yr ymweliad) o'r Prif Reoliadau, ar ôl “a national of a member State” mewnosoder “a British citizen.”

- (a) immediately before exit day held a valid UK reciprocal healthcare document; or
- (b) at the time that the treatment which constitutes the relevant services was provided, would have been eligible to be issued with a UK reciprocal healthcare document if exit day had not occurred.

(2) Paragraph (1) does not apply to a frontier worker or a member of the family of a frontier worker.

(3) In this regulation—

“competent institution” has the same meaning as in Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71 as the case may be;

“frontier worker” has the same meaning as in Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71 as the case may be;

“UK reciprocal healthcare document” means an S1 healthcare certificate, A1 healthcare certificate, European Health Insurance Card or equivalent document issued by a competent institution of the United Kingdom.

### Frontier workers

4C.—(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 a relevant frontier worker.

(2) In paragraph (1) “a relevant frontier worker” means a person who—

- (a) on or after exit day, is pursuing in the United Kingdom an activity as an employed or self-employed person which the person began to pursue there before exit day;
- (b) resides in an EEA state or Switzerland; and
- (c) returns to their residence in that EEA state or Switzerland (as the case may be) at least once a week.”

### Amendment of regulation 5

6. In Regulation 5(a) (exemption from charges for treatment the need for which arose during the visit) of the Principal Regulations, after “a national of a member State,” insert “a British citizen.”

## Rheoliad newydd 5A

7. Ar ôl rheoliad 5 (esemptiad rhag ffioedd am driniaeth y cododd yr angen amdani yn ystod yr ymweliad) o'r Prif Reoliadau mewnosoder—

### “EU Exit: transitional arrangements

5A. No charge may be made or recovered in respect of any relevant services provided on or after exit day to an overseas visitor who is ordinarily resident in an EEA state or Switzerland, as part of a course of planned treatment which was authorised before exit day in accordance with Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71.”

## Diwygio Atodlen 2

8. Yn Atodlen 2 (gwledydd neu diriogaethau y mae'r Deyrnas Unedig wedi ymrwmo i gytundeb cilyddol mewn cysylltiad â hwy) i'r Prif Reoliadau, yn y lle priodol mewnosoder—

- (a) “Faroe Islands”;
- (b) “Liechtenstein”;
- (c) “Norway”; a
- (d) “Switzerland”.

## New regulation 5A

7. After regulation 5 (exemption from charges for treatment the need for which arose during the visit) of the Principal Regulations insert—

### “EU Exit: transitional arrangements

5A. No charge may be made or recovered in respect of any relevant services provided on or after exit day to an overseas visitor who is ordinarily resident in an EEA state or Switzerland, as part of a course of planned treatment which was authorised before exit day in accordance with Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71.”

## Amendment of Schedule 2

8. In Schedule 2 (countries or territories in respect of which the United Kingdom has entered into a reciprocal agreement) to the Principal Regulations, at the appropriate place insert—

- (a) “Faroe Islands”;
- (b) “Liechtenstein”;
- (c) “Norway”; and
- (d) “Switzerland”.

*Vaughan Gething*

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,  
un o Weinidogion Cymru  
26 Mehefin 2019

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Minister for Health and Social Services, one of the  
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