

POLICY NOTE

THE NATIONAL HEALTH SERVICE (CHARGES TO OVERSEAS VISITORS) (SCOTLAND) AMENDMENT REGULATIONS 2022

SSI 2022/114

The above instrument was made in exercise of the powers conferred by sections 98 and 105 of the National Health Service (Scotland) Act 1978. The instrument is subject to negative procedure.

Purpose of the instrument. This instrument ensures overseas visitors from Ukraine who have been displaced as a result of the ongoing conflict can receive relevant healthcare services, provided by NHS Scotland, at no charge. This may include maternity care, mental health services and treatment for specific conditions.

Policy Objectives

1. This instrument amends the NHS (Charges to Overseas Visitors) (Scotland) Regulations 1989 (S.S.I. 1989/364) (the 1989 Regulations). The 1989 Regulations provide for NHS Boards in Scotland to make and recover charges from overseas visitors (anyone not ordinarily resident in the UK) for relevant services provided to them, unless the overseas visitor, or the service which they receive, is covered by one of a number of exemptions.
2. This instrument introduces new regulation 4C, which creates an exemption from the charges for all people who are ordinarily resident in Ukraine and are lawfully present in the UK (“eligible people from Ukraine”). The exemption also applies to those peoples’ spouses, civil partners or children. This approach ensures that the exemption is consistent across the available visa routes. There are a number of routes which such people might rely upon to obtain a visa which will permit them to remain lawfully in the United Kingdom, including visa routes recently announced by the UK Government for those fleeing the conflict in Ukraine.¹ Individuals who come to the UK under those schemes may not be covered by current exemptions and, in the absence of this new exemption, would be charged for the relevant healthcare services provided by NHS Scotland. This exemption will also cover people who are ordinarily resident in Ukraine, were already in the UK on short-term visas when the conflict began, on 24 February 2022, and are extending or switching their visas because they cannot return to Ukraine.
3. Regulation 4C will apply to treatment provided to eligible people from Ukraine on and after 24 February 2022. No charge may be made or recovered on or after this date. If charges have already been incurred since 24 February 2022, they must be cancelled and not recovered. If charges have already been paid for treatment on, or after, 24 February 2022, then that sum is to be repaid. The exemption applies to any treatment provided on or after 24 February 2022, when the conflict in Ukraine began and the person can thereafter be considered as displaced, regardless of when they arrived in Scotland. If a person from Ukraine was already receiving treatment before this date, their treatment up until 24 February 2022 may still be chargeable, in

¹ UK visa support for Ukrainian nationals - GOV.UK (www.gov.uk)

common with any other overseas visitor (unless they are exempt under the 1989 Regulations for another reason). We anticipate that most services chargeable under the 1989 Regulations which might have been provided since 24 February 2022 to eligible people from Ukraine would have been services provided by Health Boards. In the event that an oral health assessment, dental examination, eye examination or sight test chargeable under the 1989 Regulations was provided by a dental practitioner, ophthalmic medical practitioner or ophthalmic optician those charges must not be made or recovered from the eligible person. Instead those charges will be recoverable from Practitioner Services.

Consultation

4. There has been no public consultation in relation to this instrument. However, Scottish Government is, will remain, in contact with all Health Boards regarding the invasion in Ukraine and will continue to monitor the impact of displaced people arriving in Scotland on healthcare services.
5. The UK Government have laid a similar amendment to the NHS England overseas visitors charging regulations on 17 March 2022, which came into force on the same day.² Charging policy is a devolved matter, and the Scottish Government is responsible for taking forward any amendments to the 1989 Regulations.

Impact Assessments

6. There is no, or no significant, impact on business, charities or voluntary bodies.
7. The impact on the public sector is that the existing obligation on Health Boards and the providers of certain NHS services to make and recover charges from overseas visitors from Ukraine when providing certain services has been removed.
8. Furthermore, the instrument is being introduced as a temporary measure that will largely impact Health Boards in Scotland. The Scottish Government will keep the impact of the exemption under review as the crisis in Ukraine develops. This will include considering the need for any further changes to the 1989 Regulations. Health Boards will be asked to monitor the number of eligible people from Ukraine who receive treatment and the costs involved. The requirement to undertake Impact Assessments will be considered while this instrument remains under review.

Financial Effects

9. The Cabinet Secretary for Health and Social Care confirms that no BRIA is necessary, as the instrument has no, or no significant financial effect on the Scottish Government, local government or on business.

² [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 2\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Guidance

10. The Scottish Government will provide guidance to NHS Boards and NHS Inform who will be involved in the operation of these changes.

Contact

11. John Cameron (email: john.cameron@gov.scot) can be contacted with any queries regarding this instrument.

Scottish Government
Directorate for Healthcare Quality and Improvement

24 March 2022