

## STATUTORY INSTRUMENTS

# 2015 No. 238

## The National Health Service (Charges to Overseas Visitors) Regulations 2015

### PART 4

#### Overseas visitors exempt from charges

#### [<sup>F1</sup>Interpretation of this Part

##### 9A. In this Part—

“chargeable assisted conception services” means any medical, surgical or obstetric services provided for the purpose of assisting a person to carry a child, other than—

- (a) a service that [<sup>F2</sup>NHS England] must arrange under the following regulations of the [<sup>F2</sup>NHS England] and [<sup>F3</sup>integrated care boards] (Responsibility and Standing Rules) Regulations 2012—
  - (i) regulation 7 (services for serving members of the armed forces and their families);
  - (ii) regulation 8 (infertility treatment: seriously injured serving members and veterans);
  - or
  - (iii) regulation 9 (infertility treatment: further provision); or
- (b) a service provided as part of a course of treatment, where that course of treatment began before 21st August 2017.]

#### Textual Amendments

- F1** Reg. 9A inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **11**
- F2** Words in Regulations substituted (6.11.2023) by [The Health and Care Act 2022 \(Further Consequential Amendments\) \(No. 2\) Regulations 2023 \(S.I. 2023/1071\)](#), reg. 1(1), **Sch. para. 1**
- F3** Words in Regulations substituted (1.7.2022) by [The Health and Care Act 2022 \(Consequential and Related Amendments and Transitional Provisions\) Regulations 2022 \(S.I. 2022/634\)](#), reg. 1(2), **Sch. para. 1**

#### Immigration health charge

**10.**—(1) In this regulation “relevant period” means—

- (a) where—
  - (i) an immigration health charge is payable <sup>M1</sup>;
  - (ii) an exemption from paying an immigration health charge applies as a consequence of any exemption provided for in an order made under section 38 (immigration health charge) of the 2014 Act;

- (iii) the Secretary of State has exercised discretion to reduce or waive all or part of an immigration health charge in accordance with such an order; <sup>F4</sup> ...
- (iv) the Secretary of State has exercised discretion to refund part <sup>F5</sup> ... of an immigration health charge paid under such an [<sup>F6</sup>order; or]
- [<sup>F7</sup>(v) in a case to which paragraph (5) applies, the Secretary of State has exercised discretion to refund all of an immigration health charge paid under such an order,]
- the period of leave to enter or remain in the United Kingdom which is granted to the overseas visitor, or has effect on their arrival in the United Kingdom, in respect of the application for entry clearance or leave to remain to which the immigration health charge, exemption, reduction [<sup>F8</sup>, refund] or waiver relates; and
- (b) in a case where the overseas visitor's leave to enter or remain in the United Kingdom is extended by virtue of—
- (i) section 3C (continuation of leave pending variation decision) <sup>M2</sup>; or
  - (ii) section 3D (continuation of leave following revocation) <sup>M3</sup>,
- of the 1971 Act, the period in respect of which leave is extended under those sections.
- (2) [<sup>F9</sup>Subject to paragraph (2A),] no charge may be made or recovered under these Regulations in respect of any relevant services provided during the relevant period to an overseas visitor in respect of whom—
- (a) an immigration health charge has been paid;
  - (b) an exemption from paying such an immigration health charge applies, unless paragraph (3) applies;
  - (c) [<sup>F10</sup>subject to paragraph (6),] a reduction or waiver from paying such an immigration health charge applies; or
  - (d) a refund for part, [<sup>F11</sup>or in a case to which paragraph (5) applies (but only in that case)] all, of an immigration health charge has been made,
- in accordance with an order made under section 38 of the 2014 Act.
- [<sup>F12</sup>(2A) Paragraph (2) does not apply in respect of chargeable assisted conception services.]
- (3) [<sup>F13</sup>Subject to paragraph (4), this] paragraph applies where a person is exempt from payment of an immigration health charge under an order made under section 38 of the 2014 Act by virtue of having made an application—
- (a) for entry clearance where, if granted in accordance with the immigration rules, the entry clearance would have effect on arrival in the United Kingdom as leave to enter for 6 months or less, or where the leave to enter which may be granted pursuant to that entry clearance would be for 6 months or less if granted in accordance with the immigration rules; or
- [<sup>F14</sup>(b) for entry clearance—
- (i) before 6th April 2016, under Part 2 of the immigration rules (visitors to the UK); or
  - (ii) on or after 6th April 2016, under Appendix V to the immigration rules (immigration rules for visitors).]

[<sup>F15</sup>(4) Paragraph (3) does not apply where a person is exempt from the payment of an immigration health charge by virtue of Schedule 2, paragraph 1(o) of the Immigration (Health Charge) Order 2015.

(5) No charge may be made to or recovered from a person under these Regulations—

- (a) in respect of any relevant services provided to that person on or after 27th October 2020 and during the relevant period, and
- (b) where a full refund of an immigration health charge has been made to, or in respect of, that person on the ground that they are a—
  - (i) person who is working in the field of health or social care; or
  - (ii) dependant of a person who is working in the field of health or social care.]

[<sup>F16</sup>(6) Paragraph (2) does not apply in respect of relevant services that are provided to an overseas visitor —

- (a) who is granted leave to remain in the United Kingdom under Appendix S2 Healthcare Visitor to the immigration rules, and
- (b) in respect of whom a waiver to the immigration health charge applies,

where those relevant services are not part of the planned healthcare treatment authorised by that person's S2 healthcare certificate.]

#### Textual Amendments

- F4** Word in reg. 10(1)(a)(iii) omitted (27.10.2020) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No.3\) Regulations 2020 \(S.I. 2020/1152\)](#), regs. 1, **2(2)**
- F5** Words in reg. 10(1)(a)(iv) omitted (27.10.2020) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No.3\) Regulations 2020 \(S.I. 2020/1152\)](#), regs. 1, **2(3)**
- F6** Words in reg. 10(1)(a)(iv) substituted (27.10.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No.3\) Regulations 2020 \(S.I. 2020/1152\)](#), regs. 1, **2(3)**
- F7** Reg. 10(1)(a)(v) inserted (27.10.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No.3\) Regulations 2020 \(S.I. 2020/1152\)](#), regs. 1, **2(4)**
- F8** Word in reg. 10(1)(a) inserted (27.10.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No.3\) Regulations 2020 \(S.I. 2020/1152\)](#), regs. 1, **2(5)**
- F9** Words in reg. 10(2) inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **12(2)**
- F10** Words in reg. 10(2)(c) inserted (31.12.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1423\)](#), regs. 1(2), **5(a)**
- F11** Words in reg. 10(2)(d) substituted (27.10.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No.3\) Regulations 2020 \(S.I. 2020/1152\)](#), regs. 1, **2(6)**
- F12** Reg. 10(2A) inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **12(3)**
- F13** Words in reg. 10(3) substituted (27.10.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No.3\) Regulations 2020 \(S.I. 2020/1152\)](#), regs. 1, **2(7)**
- F14** Reg. 10(3)(b) substituted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **12(4)**
- F15** Reg. 10(4)(5) inserted (27.10.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No.3\) Regulations 2020 \(S.I. 2020/1152\)](#), regs. 1, **2(8)**
- F16** Reg. 10(6) inserted (31.12.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1423\)](#), regs. 1(2), **5(b)**

#### Marginal Citations

- M1** It is anticipated that an order will be made under section 38 of the Immigration Act 2014 to be in force on the 6th April 2015, but if that is not the case then regulations 10, 11 and 25(3) have no practical effect until such time as an order is made.
- M2** [1971 c. 77](#); section 3C was amended by the [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), section 118; the [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), section 11(1) to (4); and the [Immigration Act 2014 \(c. 22\)](#) (the 2014 Act), Schedule 9, paragraphs 20 and 21.

**M3** Section 3D was amended by the Immigration, Asylum and Nationality Act 2006, section 11(5) and the 2014 Act, Schedule 9, paragraphs 20 and 22.

**Overseas visitors who have made applications for entry clearance or leave to remain prior to the commencement of the immigration health charge**

**11.**—(1) In this regulation “relevant period” means—

- (a) the period of leave to enter or remain in the United Kingdom granted to the overseas visitor in respect of the application for entry clearance or leave to remain to which paragraph (3) (a) refers; and
- (b) in a case where the overseas visitor's leave to enter or remain in the United Kingdom is extended by virtue of—
  - (i) section 3C (continuation of leave pending variation decision); or
  - (ii) section 3D (continuation of leave following revocation),
 of the 1971 Act, the period in respect of which leave is extended under those sections.

(2) In this regulation “relevant date” means the date of coming into force of the first order made under section 38 of the 2014 Act.

(3) <sup>F17</sup>Subject to paragraph (3A),] no charge may be made or recovered under these Regulations in respect of any relevant services provided to an overseas visitor during the relevant period who—

- (a) made an application for entry clearance or leave to remain in the United Kingdom before the relevant date and was granted leave to enter or remain in the United Kingdom or entry clearance which has effect on the overseas visitor's arrival in the United Kingdom as leave to enter or remain in the United Kingdom in respect of that application;
- (b) has entered, or remained in, the United Kingdom by virtue of that leave to enter or remain; and
- (c) had that application for entry clearance or leave to remain been made on or after the relevant date, would be—
  - (i) liable to pay an immigration health charge; or
  - (ii) exempt from paying an immigration health charge as a consequence of an exemption provision under an order made under section 38 of the 2014 Act, unless paragraph (4) applies.

<sup>F18</sup>(3A) Paragraph (3) does not apply in respect of chargeable assisted conception services.]

(4) This paragraph applies where an overseas visitor—

- (a) would be exempt from an immigration health charge under an order made under section 38 of the 2014 Act by virtue of having made an application of a kind described in regulation 10(3)(a) or (b) (immigration health charge); or
- (b) has been granted leave to enter or remain in the United Kingdom outside the immigration rules for 6 months or less.

**Textual Amendments**

**F17** Words in reg. 11(3) inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **13(a)**

**F18** Reg. 11(3A) inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **13(b)**

### [<sup>F19</sup>Overseas visitors with citizens' rights

**12.**—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who has an entitlement to the provision of those services without charge by virtue of a right arising from—

- (a) Title III of Part 2 of the withdrawal agreement,
- (b) Title III of Part 2 of the EEA EFTA separation agreement, or
- (c) the social security co-ordination provisions of the Swiss citizens' rights agreement.

(2) In paragraph (1), “withdrawal agreement”, “EEA EFTA separation agreement” and “Swiss citizens' rights agreement” have the same meanings as in section 39(1) of the European Union (Withdrawal Agreement) Act 2020.]

#### Textual Amendments

**F19** Reg. 12 substituted (31.12.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1423\)](#), regs. 1(2), 6

### [<sup>F20</sup>Overseas visitors with Trade and Cooperation Agreement rights

**12A.**—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who has an entitlement to the provision of those services without charge by virtue of a right arising from the SSC Protocol provisions of the Trade and Cooperation Agreement.

(2) In paragraph (1), “the SSC Protocol” has the same meaning as in section 26(5) of the European Union (Future Relationship) Act 2020 (“the 2020 Act”) and “the Trade and Cooperation Agreement” has the same meaning as in section 37(1) of the 2020 Act.]

#### Textual Amendments

**F20** Reg. 12A inserted (31.12.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2020 \(S.I. 2020/1659\)](#), regs. 1(2), 3

### [<sup>F21</sup>Overseas visitors with a United Kingdom issued S1 healthcare certificate or equivalent document

**13.** No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who—

- (a) was ordinarily resident in an EEA state or Switzerland immediately before IP completion day,
- (b) continues to be ordinarily resident in an EEA state or Switzerland on and after IP completion day,
- (c) receives a state pension paid by the United Kingdom Government, and
- (d) holds an S1 healthcare certificate, or an equivalent document, issued to or in respect of that person by a competent institution of the United Kingdom.

#### Textual Amendments

**F21** Regs. 13, 13A substituted for reg. 13 (31.12.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1423\)](#), regs. 1(2), 7

### Persons who make late applications under Appendix EU to the immigration rules

**13A.**—(1) [<sup>F22</sup>No] charge may be made or recovered in respect of relevant services provided to an overseas visitor to whom paragraph (2) or (3) applies during the period which begins with the date on which the application mentioned in paragraph (2)(b) or (3)(b), as the case may be, is made and which ends with the date on which that application is finally determined under Appendix EU to the immigration rules.

(2) This paragraph applies to a person who is an overseas visitor by virtue of section 39 of the 2014 Act who—

- (a) is eligible to apply for leave to enter or remain in the United Kingdom under Appendix EU to the immigration rules, and
- (b) makes a valid application for leave to enter or remain in the United Kingdom under that Appendix to those rules after the application deadline.

(3) This paragraph applies to a person who is an overseas visitor by virtue of section 39 of the 2014 Act who—

- (a) was granted limited leave to enter or remain in the United Kingdom under Appendix EU to the immigration rules, and
- (b) after the expiry of that limited leave to enter or remain, makes a valid application for indefinite leave to enter or remain in the United Kingdom under Appendix EU to the immigration rules.

<sup>F23</sup>(4) .....

[<sup>F24</sup>(5) Where a person has made an application mentioned in paragraph (2)(b) or (3)(b) and has received relevant services during the period specified in paragraph (1), if the relevant body—

- (a) has made charges for relevant services received during that period, but has not yet recovered them, it must not recover those charges;
- (b) has made and recovered charges for relevant services received during that period, it must repay any sum paid in respect of those charges.]

(6) In paragraph (2), “application deadline” has the meaning given in regulation 2 of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.]

#### Textual Amendments

- F21** Regs. 13, 13A substituted for reg. 13 (31.12.2020) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1423\)](#), regs. 1(2), **7**
- F22** Word in reg. 13A(1) substituted (18.2.2023) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2023 \(S.I. 2023/81\)](#), regs. 1(1), **2(2)(a)**
- F23** Reg. 13A(4) omitted (18.2.2023) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2023 \(S.I. 2023/81\)](#), regs. 1(1), **2(2)(b)**
- F24** Reg. 13A(5) substituted (18.2.2023) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2023 \(S.I. 2023/81\)](#), regs. 1(1), **2(2)(c)**

### [<sup>F25</sup>Healthcare agreements

**14.** No charge may be made or recovered in respect of any relevant services provided to an overseas visitor under a healthcare agreement with a country, territory or international organisation specified in Schedule 2.]

#### Textual Amendments

- F25** Reg. 14 substituted (28.12.2022) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 4\) Regulations 2022](#) (S.I. 2022/1253), regs. 1(1), **2(5)**

#### [<sup>F26</sup>Family members of British citizens of Northern Ireland

**14C.**—(1) No charge may be made or recovered in respect of relevant services provided to an overseas visitor who—

- (a) is ordinarily resident in the United Kingdom (disregarding section 39 of the Immigration Act 2014 (immigration health charge related provision: charges for health services));
- (b) has leave to enter or remain under Appendix EU to the immigration rules granted on the basis of a relationship with a relevant person of Northern Ireland; and
- (c) would, at the date of assessment of whether a charge under these Regulations falls to be made, have a right to reside in accordance with the Immigration (European Economic Area) Regulations 2016, disregarding that the relevant person of Northern Ireland is not included in the definition of “EEA national” in regulation 2 (general interpretation).

(2) In paragraph (1), “relevant person of Northern Ireland” has the meaning given in Appendix EU to the immigration rules.]

#### Textual Amendments

- F26** Reg. 14C inserted (24.8.2020) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 2\) Regulations 2020](#) (S.I. 2020/654), regs. 1(2), **2**

#### Modifications etc. (not altering text)

- C1** Reg. 14C applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1209), regs. 1(1), **3(3)**, 4(4), 11(x)

#### Refugees, asylum seekers, supported individuals and looked after children

**15.** No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who—

- (a) has been granted temporary protection, asylum or humanitarian protection under the immigration rules;

[<sup>F27</sup>(aa) is a dependant of a person described in paragraph (a) (“the principal overseas visitor”) and—

- (i) has leave to enter or remain in the United Kingdom as the dependant of the principal overseas visitor; or
- (ii) is born in the United Kingdom to the principal overseas visitor.]

- (b) has made an application, which has not yet been determined, to be granted temporary protection, asylum or humanitarian protection under [<sup>F28</sup>the immigration rules];

[<sup>F29</sup>(ba) is treated as a dependant of a person described in paragraph (b) for the purposes of an application described in that paragraph;]

- (c) is currently supported under section 95 (persons for whom support may be provided) of the Immigration and Asylum Act 1999 <sup>M4</sup> (“the 1999 Act”);

- (d) has made an application to be granted temporary protection, asylum or humanitarian protection under the immigration rules which was rejected and who is supported under—
- (i) section 4(2) (facilities for the accommodation of a person) of the 1999 Act <sup>M5</sup>, <sup>F30</sup> ...
- <sup>F31</sup>(ii) . . . . . ; or
- [<sup>F32</sup>(iii) Part 1 (care and support) of the Care Act 2014 [<sup>F33</sup>or section 35 or 36 of the Social Services and Well-being (Wales) Act 2014,] by the provision of accommodation; <sup>F34</sup> ...]
- [<sup>F35</sup>(da) is treated as the dependant of a person described in paragraph (d) for the purposes of the provision of support under that paragraph; or]
- (e) is a child who is looked after by a local authority within the meaning of section 22(1) (general duty of local authority in relation to children looked after by them) of the Children Act 1989 <sup>M6</sup>[<sup>F36</sup>or, as the case may be, section 74(1) of the Social Services and Well-being (Wales) Act 2014 (child or young person looked after by a local authority)].

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#### Textual Amendments

- F27** Reg. 15(aa) substituted (28.12.2022) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 4\) Regulations 2022 \(S.I. 2022/1253\)](#), regs. 1(1), **2(6)**
- F28** Words in reg. 15(b) substituted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **14(3)**
- F29** Reg. 15(ba) inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **14(4)**
- F30** Word in reg. 15(d)(i) omitted (1.2.2016) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2015 \(S.I. 2015/2025\)](#), regs. 1(1), **5(a)**
- F31** Reg. 15(d)(ii) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Regulations 2016 \(S.I. 2016/211\)](#), reg. 1(2), **Sch. 3 para. 180(a)**
- F32** Reg. 15(d)(iii) added (1.2.2016) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2015 \(S.I. 2015/2025\)](#), regs. 1(1), **5(b)**
- F33** Words in reg. 15(d)(iii) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Regulations 2016 \(S.I. 2016/211\)](#), reg. 1(2), **Sch. 3 para. 180(b)**
- F34** Word in reg. 15(d) omitted (21.8.2017) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **14(5)**
- F35** Reg. 15(da) inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **14(6)**
- F36** Words in reg. 15(e) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Regulations 2016 \(S.I. 2016/211\)](#), reg. 1(2), **Sch. 3 para. 180(c)**

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#### Marginal Citations

- M4** 1999 c. 33; section 95 was amended by the [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), section 44(1) and (6) and 50(1).
- M5** Section 4 was amended by the [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), section 49; the [Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(c. 19\)](#), section 10(1) and (6), and the [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), section 43(7).
- M6** 1989 c. 41; section 22(1) was amended by the [Local Government Act 2000 \(c. 22\)](#), Schedule 5, paragraph 19; the [Children \(Leaving Care\) Act 2000 \(c. 35\)](#), section 2(1) and (2), and the [Adoption and Children Act 2002 \(c. 38\)](#), section 116(2).



### [<sup>F37</sup>Victims of modern slavery

**16.**—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor, where a competent authority—

- (a) has identified the overseas visitor as a victim of modern slavery; or
- (b) considers that there are reasonable grounds to believe that the overseas visitor is a victim of modern slavery, and—
  - (i) a competent authority is required to make a conclusive determination; and
  - (ii) there has not been a conclusive determination by a competent authority that the overseas visitor is not a victim of modern slavery.

(2) In this regulation—

“competent authority” means a designated competent authority of the United Kingdom for the purposes of the Trafficking Convention;

“Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (agreed at Warsaw on 16th May 2005);

“victim of modern slavery” means a victim of—

- (a) trafficking in human beings, which has the same meaning as in the Trafficking Convention, as set out in article 4 of that Convention; or
- (b) slavery, servitude, or forced or compulsory labour, which have the same meaning as they have for the purposes of article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms (agreed at Rome on 4th November 1950).]

#### **Textual Amendments**

**F37** Reg. 16 substituted (1.2.2016) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2015 \(S.I. 2015/2025\)](#), regs. 1(1), **6(1)**

### **Exceptional humanitarian reasons**

**17.**—(1) Where an overseas visitor who has been granted leave to enter the United Kingdom outside the immigration rules—

- (a) applies (or someone applies on the overseas visitor's behalf) for exemption from charges in respect of relevant services for a course of treatment; and
- (b) the Secretary of State determines that exceptional humanitarian reasons justify it,

no charge may be made or recovered in respect of relevant services provided to that overseas visitor for that course of treatment.

(2) A determination under paragraph (1)(b) may only be made by the Secretary of State if the Secretary of State is satisfied, in the case of that overseas 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 authorised child for the duration of the course of treatment; and
- (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.

### Overseas visitors detained in hospital or subject to court ordered treatment

**18.** No charge may be made or recovered in respect of relevant services provided to an overseas visitor—

- (a) who is liable to be detained in a hospital, received into guardianship or subject to a community treatment order under the Mental Health Act 1983 <sup>M7</sup>;
- (b) who is detained in a hospital in circumstances which amount to deprivation of the overseas visitor's liberty and that deprivation of liberty is authorised under any of the following provisions of the Mental Capacity Act 2005 <sup>M8</sup>—
  - (i) section 4A (restriction on deprivation of liberty) <sup>M9</sup>;
  - (ii) section 4B (deprivation of liberty necessary for life-sustaining treatment etc) <sup>M10</sup>;
  - (iii) section 16 (powers to make decisions and appoint deputies: general); or
  - (iv) Schedule A1 (hospital and care home residents: deprivation of liberty) <sup>M11</sup>;
- (c) whose detention in hospital is authorised by any other enactment authorising detention in a hospital; or
- (d) who is required to submit to a specified form of treatment that is imposed by, or included in, an order of a court and paragraph (a), (b) or (c) does not apply.

#### Marginal Citations

**M7** 1983 c. 20. Section 17A(3) of the Mental Health Act 1983, which was inserted by section 32(1) and (2) of the [Mental Health Act 2007 \(c. 12\)](#) (“the 2007 Act”), defines “community treatment order” for the purposes of that Act.

**M8** 2005 c. 9.

**M9** Section 4A was inserted by the 2007 Act, section 50(1) and (2).

**M10** Section 4B was inserted by the 2007 Act, section 50(1) and (2).

**M11** Schedule A1 was inserted by the 2007 Act, Schedule 7.

### Prisoners or detainees

**19.—(1)** No charge may be made or recovered in respect of any relevant services provided to an overseas visitor—

- (a) who is detained in prison or in a place in which a person may be detained that is provided by the Secretary of State under section 43(1) (remand centres and young offender institutions) of the Prison Act 1952 <sup>M12</sup>; or
  - (b) who is detained under any of the following provisions—
    - (i) Schedule 2 (administrative provisions as to control on entry etc) <sup>M13</sup> or Schedule 3 (supplementary provisions as to deportation) <sup>M14</sup> to the 1971 Act;
    - (ii) section 62 (detention by Secretary of State) of the Nationality, Immigration and Asylum Act 2002 <sup>M15</sup>;
    - (iii) section 40(7)(c) (searches: contracting out) of the Immigration, Asylum and Nationality Act 2006 <sup>M16</sup>; or
    - (iv) section 2 (detention) or 36 (detention) of the UK Borders Act 2007 <sup>M17</sup>.
- (2) In this regulation, “prison” has the meaning given in section 53(1) of the Prison Act 1952 <sup>M18</sup>.

### Marginal Citations

- M12** 1952 c. 52; section 43(1) was amended by the [Criminal Justice Act 1988 \(c. 33\)](#), Schedule 8, paragraph 1, Schedule 15, paragraph 11, Schedules 16 and 18; the [Criminal Justice and Public Order Act 1994 \(c. 33\)](#), section 5(2), 18(3) and Schedule 11; the [Crime and Disorder Act 1998 \(c. 37\)](#), Schedule 8, paragraph 6; the [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c. 6\)](#), Schedule 9, paragraph 5(1) and (2); the [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), Schedule 26, paragraph 3, and the [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), Schedule 12, paragraph 4.
- M13** 1971 c. 77; Schedule 2 was amended by the [Criminal Justice Act 1972 \(c. 71\)](#), Schedule 6, Part II; the [British Nationality Act 1981 \(c. 61\)](#), Schedule 4, paragraphs 2 and 3(1); the [Immigration Act 1988 \(c. 14\)](#), Schedule, paragraphs 6 to 9 and 10(1); the [Asylum and Immigration Act 1996 \(c. 49\)](#), Schedule 2, paragraphs 5 to 12 and Schedule 4; the [Access to Justice Act 1999 \(c. 22\)](#), Schedule 13, paragraph 70; the [Immigration and Asylum Act 1999 \(c. 33\)](#), section 18, 19, 132(2), 134(2), 135(2), 136(2), 139(2), 140, Schedule 14, paragraphs 43, 56 to 65, 67 and Schedule 16; the [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), sections 63, 64, 73(1) and (5), 119 and Schedule 7, paragraphs 2, 4 and 6; the [Courts Act 2003 \(c. 39\)](#), Schedule 8, paragraph 149; the [Health Protection Agency Act 2004 \(c. 17\)](#), Schedule 3, paragraph 3; the [Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(c. 19\)](#), section 16, 18 and Schedules 2 and 4, paragraph 1; the [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), sections 27, 31 and 42 and Schedule 3; the [Immigration Act 2014 \(c. 22\)](#), section 5, 7, 9, 13, Schedule 1, paragraphs 1, 2(1) and 3, Schedule 2, paragraph 1, Schedule 8, Schedule 9, paragraphs 1, 20, 23 and 72; S.I. 1990/2227, 1993/1813, 2010/21 and 2014/1704.
- M14** Schedule 3 was amended by the [Criminal Justice Act 1982 \(c. 48\)](#), Schedule 10; the [Immigration Act 1988 \(c. 14\)](#), Schedule, paragraph 10(2); the [Asylum and Immigration Act 1996 \(c. 49\)](#), Schedule 2, paragraph 13; the [Immigration and Asylum Act 1999 \(c. 33\)](#), section 54 and Schedule 14, paragraphs 43 and 68; the [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), Schedule 7, paragraph 7 and 8; the [Courts Act 2003 \(c. 39\)](#), Schedule 8, paragraph 150 and Schedule 10; the [Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(c. 19\)](#), section 34; the [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), section 53, and the [Immigration Act 2014 \(c. 22\)](#), Schedule 1, paragraph 2(2) and Schedule 9, paragraphs 9, 20 and 24.
- M15** 2002 c. 41; section 62 was amended by the [Prevention of Terrorism Act 2005 \(c. 2\)](#), section 16(2)(c) and the [Immigration Act 2014 \(c. 22\)](#), Schedule 9, paragraphs 3(1), (2) and 13.
- M16** 2006 c. 13.
- M17** 2007 c. 30; section 2 was amended by the [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), section 52(1).
- M18** 1952 c. 52. There are amendments to section 53(1) but none are relevant.

### Members of the regular and reserve forces, Crown servants and others

**20.**—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is—

- (a) a member of the regular or reserve forces within the meaning of the Armed Forces Act 2006<sup>M19</sup>;
- (b) a qualifying employee who is visiting the United Kingdom in the course of the qualifying employment; or
- (c) where paragraph (b) does not apply, a qualifying employee who—
  - (i) was ordinarily resident in the United Kingdom immediately prior to becoming a qualifying employee; or

(ii) where the qualifying employee has been employed in more than one position of qualifying employment, the qualifying employee was ordinarily resident in the United Kingdom immediately prior to taking up one of the positions of qualifying employment.

(2) An overseas visitor will be a “qualifying employee” if the overseas visitor was recruited in the United Kingdom and is—

- (a) a Crown servant (other than a person falling within paragraph (1)(a)) employed by, or in the service of, the Government of the United Kingdom;
- (b) an employee of the British Council or the Commonwealth War Graves Commission; or
- (c) working in employment, whether or not the overseas visitor derives a salary or wage from that 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.

(3) In this regulation “qualifying employment” means any period of employment during which the overseas visitor was a qualifying employee.

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**Marginal Citations**

**M19** 2006 c. 52; “the regular forces” and “the reserve forces” are defined in section 374 of the Armed Forces Act 2006 as amended by the [Defence Reform Act 2014 \(2014 c. 20\)](#), section 44(3)(a), (b) and (4).

**NATO forces**

**21.**—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is a person to whom Article IX(5) of the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty (agreed in London on 19th June 1951) <sup>M20</sup> applies.

(2) This regulation applies where the services in question cannot readily be provided by the medical services of the armed forces of—

- (a) the overseas visitor's own country; or
- (b) the United Kingdom.

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**Marginal Citations**

**M20** Cmd. 9363.

**War pensioners and armed forces compensation scheme payment recipients**

**22.** No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is in receipt of—

- (a) any pension or other benefit under a Personal Injuries Scheme or Service Pensions Instrument, which Scheme and Instrument are defined in regulation 2(1) (interpretation) of the Social Security (Overlapping Benefits) Regulations 1979 <sup>M21</sup>; 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 <sup>M22</sup>.

#### Marginal Citations

**M21** S.I. 1979/597, amended by S.I. 1980/1927; there are other amending instruments but none is relevant.

**M22** S.I. 2011/517, amended by S.I. 2011/2552; there are other amending instruments but none is relevant.

#### [<sup>F38</sup> Overseas visitors from Ukraine

**22A.**—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who—

- (a) is lawfully present in the United Kingdom; and
- (b) is ordinarily resident in Ukraine.

(2) This paragraph applies to an overseas visitor who, during the relevant period—

- (a) received relevant services from a relevant body and who is exempt from charges for those services by virtue of—
  - (i) paragraph (1);
  - (ii) regulation 25(2)(d) (family members of overseas visitors); or
  - (iii) regulation 25(3)(a)(iii) (child aged 3 months or less born to a parent lawfully present in the United Kingdom and ordinarily resident in Ukraine); or
- (b) received relevant services consisting of treatment the need for which arose during the visit from a relevant body and who is exempt from charges for those services by virtue of being—
  - (i) an authorised companion; or
  - (ii) an authorised child

who has been granted leave to enter the United Kingdom to accompany a person who is exempt from charges under paragraph (1).

(3) An overseas visitor to whom paragraph (2) applies is to be treated for the purposes of these Regulations as if, at the time that the relevant services were provided, the overseas visitor was an overseas visitor in respect of whom no charge may be made or recovered for those relevant services.

(4) A relevant body which, in respect of an overseas visitor to whom paragraph (2) applies, has—

- (a) yet to make charges under regulation 3 (obligation to make and recover charges), must not make the charges;
- (b) made charges under regulation 3 but has yet to recover the charges, must not recover the charges; or
- (c) made charges under regulation 3 and received payment in respect of the charges, must repay any sum paid in respect of the charges in accordance with regulation 5 (repayment of a sum recovered or secured by a relevant body).

(5) Paragraphs (1) to (3) do not apply in respect of chargeable assisted conception services.

(6) In this regulation “the relevant period” means the period from 24th February 2022 to the coming into force of these Regulations.]

#### Textual Amendments

**F38** Reg. 22A inserted (17.3.2022 at 5.00 p.m.) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 2\) Regulations 2022 \(S.I. 2022/318\)](#), regs. 1(2), **2(3)**

## Employees on ships

<sup>F39</sup>23. ....

### Textual Amendments

**F39** Reg. 23 omitted (21.8.2017) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **15**

## Treatment the need for which arose during the visit

24.—<sup>F40</sup>(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 any of the following—

- (a) a national of a state which is a contracting party to the European Convention on Social and Medical Assistance (agreed in Paris on 11th December 1953) <sup>M23</sup> or the European Social Charter (agreed in Turin on 18th October 1961) <sup>M24</sup> and is—
  - (i) lawfully present in the United Kingdom; and
  - (ii) without sufficient resources to pay the charge;
- (b) an authorised child or an authorised companion.

<sup>F41</sup>(2) No charge may be made or recovered in respect of any relevant services, consisting of treatment the need for which arose during the relevant period, provided to an overseas visitor who—

- (a) is in the United Kingdom during the relevant period;
- (b) has been given an accreditation pass by the Organising Committee to allow them to participate in the Games; and
- (c) is not part of the Games Workforce.

(3) In this regulation—

the “Games” and the “Organising Committee” have the meaning given in section 1 of the Birmingham Commonwealth Games Act 2020;

“the relevant period” means the period beginning with 14th July 2022 and ending with 17th August 2022;

the “Games Workforce” means—

- (a) a person engaged by the Organising Committee; or
- (b) a person engaged to a supplier, contractor or sub-contractor of the Organising Committee.]

### Textual Amendments

**F40** Reg. 24 renumbered as reg. 24(1) (14.2.2022) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2022 \(S.I. 2022/19\)](#), regs. 1(2), **2(3)(a)**

**F41** Reg. 24(2)(3) inserted (14.2.2022) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2022 \(S.I. 2022/19\)](#), regs. 1(2), **2(3)(b)**

### Marginal Citations

**M23** Cmd. 9512. The Convention entered into force in respect of the United Kingdom on 7th September 1954.

**M24** Cmd. 2643. The Charter entered into force in respect of the United Kingdom on 11th July 1962. Article 13 provides the right to social and medical assistance.

### Family members of overseas visitors

**25.**—(1) For the purposes of this regulation, unless otherwise provided, “member of the family” means—

- (a) the spouse or civil partner of an overseas visitor; or
- (b) a child in respect of whom an overseas visitor has parental responsibility.

[<sup>F42</sup>(1A) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is a member of the family of another overseas visitor (“the principal overseas visitor”) if the principal overseas visitor is exempt from charges under regulation 16 (victims of modern slavery).]

(2) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is a member of the family of another overseas visitor (“the principal overseas visitor”) and is lawfully present if the principal overseas visitor is exempt from charges under any of the following regulations—

[<sup>F43</sup>(za) regulation 13 (overseas visitors with a United Kingdom issued S1 healthcare certificate or equivalent document);]

<sup>F44</sup>(a) .....

- (b) regulation 20 (members of the regular and reserve forces, Crown servants and others);
- (c) regulation 21 (NATO forces).

[<sup>F45</sup>(d) subject to paragraph (2A), regulation 22A(1) (overseas visitors from Ukraine).]

[<sup>F46</sup>(2A) Paragraph (2)(d) does not apply in respect of chargeable assisted conception services.]

(3) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is a child who—

- (a) is born in the United Kingdom to a parent who is exempt from charges by virtue of—
  - (i) regulation 10 (immigration health charge); <sup>F47</sup> ...
  - (ii) regulation 11 (overseas visitors who have made applications for entry clearance or leave to remain prior to the commencement of the immigration health charge); [<sup>F48</sup> or
  - (iii) regulation 22A(1) (overseas visitors from Ukraine);]
- (b) is aged 3 months or less; and
- (c) has not left the United Kingdom since birth.

(4) Subject to paragraphs (5) to (7) of this regulation, no charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is a member of the family of a principal overseas visitor if—

- (a) the overseas visitor is lawfully present in the United Kingdom;
- (b) the overseas visitor is visiting the United Kingdom with the principal overseas visitor; and
- (c) the principal overseas visitor is exempt from charges under—

[<sup>F49</sup>(i) regulation 12 (overseas visitors with citizens’ rights); or]

<sup>F50</sup>(ii) .....

- (iii) regulation 22 (war pensioners and armed forces compensation scheme payment recipients).

[<sup>F51</sup>(5) Where the overseas visitor is a member of the family of a principal overseas visitor who is exempt from charges under regulation 12 (overseas visitors with citizens' rights), the exemption in paragraph (4) applies only if the conditions in both paragraph (6) and (7) are satisfied.]

[<sup>F52</sup>(6) The first condition is that—

(a) the overseas visitor does not have a right arising from a provision mentioned in regulation 12(1)(a) to (c) (overseas visitors with citizens' rights), and

(b) the reason that the overseas visitor does not have such a right is because the overseas visitor is not recognised as a member of the family (within the meaning of Article 1(i) of Regulation (EC) No 883/2004).]

(7) The second condition is that the relevant services provided to the overseas visitor are services that the overseas visitor would be entitled to receive without charge by virtue of [<sup>F53</sup>a right arising from a provision mentioned in regulation 12(1)(a) to (c) if the overseas visitor had such a right].

(8) None of the provisions of this regulation affect any entitlement which any member of the family of an overseas visitor may have to an exemption from charges for relevant services by virtue of [<sup>F54</sup>a right arising from a provision mentioned in regulation 12(1)(a) to (c)] or any other exemption which they may be entitled to in their own right.

#### Textual Amendments

- F42** Reg. 25(1A) inserted (28.12.2022) by The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 4) Regulations 2022 (S.I. 2022/1253), regs. 1(1), **2(7)(a)**
- F43** Reg. 25(2)(za) inserted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **8(a)**
- F44** Reg. 25(2)(a) omitted (28.12.2022) by virtue of The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 4) Regulations 2022 (S.I. 2022/1253), regs. 1(1), **2(7)(b)**
- F45** Reg. 25(2)(d) inserted (17.3.2022 at 5.00 p.m.) by The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/318), regs. 1(2), **2(4)(a)**
- F46** Reg. 25(2A) inserted (17.3.2022 at 5.00 p.m.) by The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/318), regs. 1(2), **2(4)(b)**
- F47** Word in reg. 25(3)(a) omitted (17.3.2022 at 5.00 p.m.) by virtue of The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/318), regs. 1(2), **2(4)(c)(i)**
- F48** Reg. 25(3)(a)(iii) and word inserted (17.3.2022 at 5.00 p.m.) by The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/318), regs. 1(2), **2(4)(c)(ii)**
- F49** Reg. 25(4)(c)(i) substituted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **8(b)(i)**
- F50** Reg. 25(4)(c)(ii) omitted (31.12.2020) by virtue of The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **8(b)(ii)**
- F51** Reg. 25(5) substituted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **8(c)**
- F52** Reg. 25(6) substituted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **8(d)**
- F53** Words in reg. 25(7) substituted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **8(e)**
- F54** Words in reg. 25(8) substituted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **8(f)**



**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Charges to Overseas Visitors) Regulations 2015, PART 4.