
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 2015 (“the Principal Regulations”) which provide for the making and recovery of charges for relevant services provided under the National Health Service Act 2006 (c.41) to certain persons not ordinarily resident in the United Kingdom. The Regulations come into force on 21st August 2017, except for provisions specified in regulation 1(2)(a) as coming into force on 23rd October 2017, which make provision for advance payments and refunds and extending the range of providers of NHS-funded services who must make and recover charges for relevant services from an overseas visitor.

Regulation 2 amends regulation 2 of the Principal Regulations. In particular, the term “relevant body” is now used to designate the bodies required to make and recover charges and the definition of “relevant NHS body”, which is the term previously used to designate such bodies, is omitted. The definition of “relevant body” expands on the definition of “relevant NHS body” by also including any other person who provides relevant services. References to “relevant NHS body” elsewhere in the Principal Regulations are replaced by “relevant body” by regulation 3.

Regulation 4 amends regulation 3 of the Principal Regulations so as to impose a requirement on relevant bodies, where the condition in regulation 3(2) of the Principal Regulations is satisfied, to secure advance payment of the estimated amount of the charge for the service to be provided (“an advance payment sum”), unless doing so would prevent or delay the provision of an immediately necessary service or an urgent service.

The amendments to that regulation also specify who should pay the sum to be secured; make provision for where more than one relevant body provides relevant services, or proposes to do so; extend the requirement on relevant bodies to provide a receipt to cover payment of an advance payment sum; require that, when making and recovering an actual charge from a person, a relevant body deducts any amount recovered in advance from that person for the relevant service in question, and refunds any excess advance payment that they may have made for that service; and specify that where a person receiving an on-going course of treatment ceases to be exempt from charges under regulation 14 of the Principal Regulations, charges may be made and recovered for the remainder of that course of treatment.

Regulation 5 inserts a new regulation, 3A, which sets out that where an NHS foundation trust or an NHS trust determines that a person is an overseas visitor, it must record that fact and whether the person is exempt from charges against that person’s consistent identifier.

Regulation 6 amends regulation 4 of the Principal Regulations to specify that where there is a change in circumstances while a relevant service is being provided which means that more one person becomes liable for the payment of a charge, each person is only liable for charges in respect of services provided during the period that the provisions of regulation 4 of the Principal Regulations applies to them.

Regulation 7 substitutes regulation 5 of the Principal Regulations with a new regulation extending the grounds under which refunds may be made. A consequential amendment to regulation 6 of the Principal Regulations is made by regulation 8.

Regulation 9 amends regulation 7 of the Principal Regulations to apply the method of calculating charges to the calculation of advance payment sums.

Regulation 10 amends regulation 9 of the Principal Regulations to omit paragraph (b) from the list of relevant services which are exempt from charge, and to provide for exemptions in respect of

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the telephone advice line known as NHS 111 and in respect of palliative care services provided by specified types of body.

Regulation 11 inserts a new regulation, 9A, into Part 4 of the Principal Regulations to provide a definition of “chargeable assisted conception services” for the purposes of that Part.

Regulations 12(2) and (3) and 13 respectively amend regulations 10 and 11 of the Principal Regulations to provide that the exemption from charges provided in regulations 10 and 11 do not apply in respect of chargeable assisted conception services. Regulation 12(4) also amends regulation 10 of the Principal Regulations to update a reference to provisions in the rules laid before Parliament under section 3(2) of the Immigration Act 1971 (c.77).

Regulation 14 amends regulation 15 of the Principal Regulations to provide an exemption in respect of dependants of persons described in regulation 15.

Regulation 15 omits regulation 23 of the Principal Regulations to remove the exemption in respect of individuals employed or engaged to work on ships registered in the United Kingdom, so that where a service is provided that is chargeable under the Regulations, owners of ships on which such individuals work will now be liable to pay the charges under regulation 4(2) of the Principal Regulations.

Regulation 16 omits “Barbados” from the list of countries in Schedule 2 to the Principal Regulations (reciprocal agreements) to reflect that the United Kingdom-Barbados reciprocal healthcare agreement has been terminated.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and public sector has been prepared. Copies may be obtained from the Cost Recovery Programme website (<https://www.gov.uk/government/collections/nhs-visitor-and-migrant-cost-recovery-programme>) or by writing to the Department of Health, Visitor and Migrant NHS Cost Recovery Programme, 2N22, Quarry House, Leeds, LS2 7UE.