

OFFERYNNAU STATUDOL CYMRU

2020 No. 1607

Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Ymwelwyr Tramor) (Diwygio) (Cymru) (Ymadael â'r UE) 2020

RHAN 2

Diwygio'r Prif Reoliadau

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) ““the 2014 Act” means the Immigration Act 2014(1);”;
- (b) ““competent institution” has the same meaning as in Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71, as the case may be;”;
- (c) ““equivalent document” means a document which, for the purposes of a listed healthcare arrangement is treated as equivalent to an S1 healthcare certificate(2);”;
- (d) ““immigration rules” means the rules laid before Parliament under section 3(2) (general provisions for regulation and control) of the Immigration Act 1971(3);”;
- (e) ““listed healthcare arrangement” has the meaning given in regulation 1(3) of the Healthcare (European Economic Area and Switzerland Arrangements) (EU Exit) Regulations 2019(4);”;
- (f) ““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 implementation period completion day(5);”;
- (g) ““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-

(1) 2014 p. 22.

(2) Mae tystysgrif gofal iechyd S1 yn rhoi hawlogaeth i berson i gael gofal iechyd mewn gwladwriaeth AEE ac yn y Swistir ar yr un sail â phreswylwyr y wlad honno. Fe'i dyroddir gan wladwriaeth AEE a'r Swistir ac fe'i dyroddwyd gan y Deyrnas Unedig, cyn iddi ymadael â'r UE. Fe'i dyroddwyd i weithwyr penodol a oedd yn gweithio mewn gwladwriaeth AEE neu yn y Swistir a dalodd Gyfraniadau Yswiriant Gwladol yn y Deyrnas Unedig neu i bobl a oedd yn cael budd-daliadau penodol y Deyrnas Unedig y gellid eu hallforio (er enghraifft, pensiynau ymddeol). Yn dilyn ymadawiad y Deyrnas Unedig â'r UE, ni fydd y Deyrnas Unedig yn dyroddi tystysgrifau gofal iechyd S1 mwyach ond bydd yn dyroddi dogfen i bersonau cymhwysol penodol a fydd yn darparu'r un mynediad at ofal iechyd â'r ddogfen gofal iechyd S1.

(3) 1971 p. 77.

(4) O.S. 2019/1293, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(5) 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 (EU) 2019/1149 Senedd Ewrop a'r Cyngor dyddiedig 20 Mehefin 2019 (OJ Rhif L 186, 11.7.2019, t. 21). Mae diwygiadau wedi eu gwneud yn rhagolygol gydag effaith o ddiwrnod cwblhau'r cyfnod gweithredu gan O.S. 2019/722.

employed persons and to members of their families moving within the Community as it had effect immediately before implementation period completion day(6);”;

- (h) ““relevant services” means accommodation, services or facilities(7) which are provided, or whose provision is arranged, under the National Health Service (Wales) Act 2006(8) other than—

- (i) primary medical services provided under Part 4 (medical services);
- (ii) primary dental services provided under Part 5 (dental services);
- (iii) primary ophthalmic services provided under Part 6 (ophthalmic services); or
- (iv) 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 is a listed healthcare arrangement; or”.

- (5) Ar ôl is-baragraff (r) mewnosoder—

“(s) who—

- (i) is granted leave to remain in the United Kingdom under Appendix S2 Healthcare Visitor to the immigration rules, and

- (ii) in respect of whom a waiver to the immigration health charge applies,

except in the case of relevant services which do not form part of the planned healthcare treatment authorised by that person's S2 healthcare certificate(9).”.

(6) OJ Rhif L 149, 5.7.1971, t. 2. Diddymwyd Rheoliad (EEC) Rhif 1408/71 gan Reoliad (EC) Rhif 883/2004 ond fe'i harbedwyd 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 i 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). Mae diwygiadau wedi eu gwneud yn rhagolygol gydag effaith o ddiwrnod cwblhau'r cyfnod gweithredu gan O.S. 2019/726.

(7) Mae “facilities” wedi eu diffinio yn adran 206(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006.

(8) 2006 p. 42.

(9) Dyroddir tystysgrif gofal iechyd S2 gan wladwriaeth AEE a'r Swistir, a, chyn iddi ymadael â'r UE, gan y Deyrnas Unedig. Mae'n rhoi hawlogaeth i berson i deithio i wladwriaeth AEE neu'r Swistir i gael triniaeth wedi ei chynllunio ac wedi ei hawdurdodi ymlaen llaw ar yr un sail â phreswyllydd y wlad honno, gyda chostau'r driniaeth yn cael eu talu gan y wlad a ddryddodd y dystysgrif gofal iechyd S2, yn unol â Rheoliad (EC) Rhif 883/2004.

Diwygio rheoliad 4A

4.—(1) Mae rheoliad 4A (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, 4C a 4D

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 citizens’ rights

4B.—(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) Subject to paragraphs (3) to (5) 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 another overseas visitor (“the 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 paragraph (1).

(3) The exemption in paragraph (2) only applies if both conditions in paragraphs (4) and (5) are satisfied.

(4) The first condition is that—

- (a) the overseas visitor does not have a right under an agreement mentioned in paragraph (1), 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).

(5) 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 a right under an agreement mentioned in paragraph (1) if the overseas visitor had such a right.

(6) 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.

(7) 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(10).

Overseas visitors with a United Kingdom issued S1 healthcare certificate or equivalent document

4C.—(1) 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 implementation period completion day,
- (b) continues to be ordinarily resident in an EEA state or Switzerland on and after implementation period completion day,
- (c) receives a state pension paid by the United Kingdom Government, and
- (d) holds a S1 healthcare certificate, or an equivalent document, issued to or in respect of that person by a competent institution of the United Kingdom.

(2) No charge may be made or recovered in respect of any relevant services provided to—

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

if that overseas visitor is exempt from charges under paragraph (1).

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

4D.—(1) Subject to paragraph (4), 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 on the date on which the application mentioned in paragraph (2)(b) or (3)(b), as the case may be, is made and which ends on 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.

(4) Where it is determined under Appendix EU to the immigration rules not to grant leave to enter or remain in the United Kingdom to a person pursuant to an application mentioned in paragraph (2)(b) or (3)(b), as the case may be, a Local Health Board or NHS trust must make and recover charges for any relevant services provided to that person during the period specified in paragraph (1).

(5) Where a person is granted leave to enter or remain in the United Kingdom pursuant to an application mentioned in paragraph (2)(b) or (3)(b)—

- (a) if the Local Health Board or NHS trust has made charges for relevant services provided during the period specified in paragraph (1), it must not recover those charges;

- (b) if the Local Health Board or NHS trust has made and recovered charges for relevant services provided during the period specified in paragraph (1), it must repay any sum paid in respect of those charges in accordance with regulation 8.

(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(11).”

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,”.

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. Where an overseas visitor who is ordinarily resident in an EEA state or Switzerland has—

- (a) before implementation period completion day received relevant services from a Local Health Board or NHS trust, or
- (b) on or after implementation period completion day received relevant services from a Local Health Board or NHS trust as part of a course of treatment which commenced before implementation period completion day,

the charges payable in respect of those services must be calculated in the same way as provided for by regulation 13(1) of the National Health Service (Cross-Border Healthcare) Regulations 2013(12).”

Diwygio Atodlen 2

8.—(1) Mae Atodlen 2 (gwledydd neu diriogaethau y mae’r Deyrnas Unedig wedi ymrwymo i gytundeb cilyddol mewn cysylltiad â hwy) i’r Prif Reoliadau wedi ei diwygio fel a ganlyn.

(2) Yn y lle priodol mewnosoder—

- (a) “Bosnia and Herzegovina”;
- (b) “Faroe Islands”;
- (c) “Kosovo”;
- (d) “Liechtenstein”;
- (e) “Montenegro”;
- (f) “North Macedonia”; ac
- (g) “Serbia”.

(3) Hepgorer—

- (a) “Barbados”;
- (b) “Iceland”;

(11) O.S. 2020/1209.

(12) O.S. 2013/2269. Mae’r Rheoliadau hyn yn cael eu dirymu ar ddiwrnod cwblhau’r cyfnod gweithredu gan O.S. 2019/777, yn ddarostyngedig i ddarpariaethau arbed a darpariaethau trosiannol yn rheoliad 15 i 17 o’r Rheoliadau hynny.

Statws *This is the original version (as it was originally made). Dim ond ar ei ffurf wreiddiol y mae'r eitem hon o ddeddfwriaeth ar gael ar hyn o bryd.*

- (c) “Russian Federation”;
- (d) “the Union of Soviet Socialist Republics except the States of Estonia, Latvia, Lithuania and the Russian Federation”; ac
- (e) “Yugoslavia”.