
WELSH STATUTORY INSTRUMENTS

2020 No. 1607

**The National Health Service (Charges to Overseas Visitors)
(Amendment) (Wales) (EU Exit) Regulations 2020**

PART 2

Amendment of the Principal Regulations

New regulations 4B, 4C and 4D

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

“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(1).

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(2).”