

2008 No. 377

HEALTH AND PERSONAL SOCIAL SERVICES

**Provision of Health Services to Persons not Ordinarily Resident
(Amendment) Regulations (Northern Ireland) 2008**

Made - - - - *11th September 2008*

Coming into operation - *6th October 2008*

The Department of Health, Social Services and Public Safety^(a), makes the following Regulations in exercise of the powers conferred upon it by Articles 42 (1) to (3), 106(b) and 107(b) of the Health and Personal Social Services (Northern Ireland) Order 1972^(b), in conjunction with the Department of Finance and Personnel:

PART 1
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Provision of Health Services to Persons not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 6th October 2008.

(2) In these regulations, “the principal Regulations” means the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005^(c).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 (Interpretation) of the principal Regulations insert the following definition at the appropriate place in the alphabetical order —

““authorised child” means a child who has either been granted leave to enter the United Kingdom with his parent for the purpose of the parent obtaining a course of treatment in respect of which no charges are payable under regulation 8A or is the child of an authorised companion;”

““authorised companion” means a person who has been granted leave to enter the United Kingdom to accompany a person who is obtaining a course of treatment in respect of which no charges are payable under regulation 8A;”

(a) See S.I. 1999/283 (N.I. 1) Article 3(6)

(b) S.I. 1972/1265 (N.I. 14) Article 42(3) was inserted by C.2 (NI) section 12(b)

(c) S.R. 2005/551

Amendment of regulation 3 of the principal Regulations

3. In regulation 3 of the principal Regulations (Visitors to whom services forming part of health services shall be available) —

- (a) in paragraph (c) after the word “treatment” insert “, or a determination under regulation 8A”;
- (b) after paragraph (q) add —
 - “; or
- (r) who is working outside the United Kingdom as a missionary for an organisation that is established in the United Kingdom, regardless of whether he —
 - (i) derives a salary or wage from the organisation, or
 - (ii) receives any type of funding or assistance from the organisation for the purposes of working overseas for the organisation; or
- (s) who the competent authorities of the United Kingdom for the purposes of the Council of Europe Convention on Action against Trafficking in Human Beings^(a) (in this regulation “the Convention”) —
 - (i) consider that there are reasonable grounds to believe is a victim within the meaning of Article 4 of the Convention, and the recovery and reflection period in relation to him under Article 13 of the Convention has not yet expired; or
 - (ii) have identified as a victim within the meaning of Article 4 of the Convention.

Amendment of regulation 4 of the principal Regulations

4. In regulation 4 of the principal Regulations (Services exempted from charges) for paragraph (4) substitute —

“(4) No charge shall be made in respect of any services forming part of health services provided for —

- (a) in the case where paragraph (h), (i), (j), (k), (r) or (s) of regulation 3 applies to a visitor, the spouse, civil partner or child of the visitor; or
- (b) spouse, civil partner or child of the visitor, if the spouse, civil partner or child lives on a permanent basis with the visitor in the United Kingdom.”

Amendment of regulation 6 of the principal Regulations

5. In regulation 6 of the principal Regulations (Exemption from charges the need for which arose during the visit) after paragraph (e) add —

- “; or
- (f) an authorised child or an authorised companion.”

Insertion of Regulation 8A

6. After regulation 8 insert the following regulation —

“Exemption from charges for exceptional humanitarian reasons

8A.—(1) Where a visitor who has been granted leave to enter the United Kingdom for a course of treatment applies, or someone on his behalf applies, for exemption from charges for services forming part of the health service, the Department may determine, where it

(a) The Council of Europe Convention on Action against Trafficking in Human Beings 2005 (CETS No. 197). See <http://www.coe.int/trafficking>

considers the exceptional humanitarian reasons justify it, that no charge shall be made or recovered in respect of that person and that course of treatment.

(2) Such a determination may be made by the Department only if it is satisfied in the case of that person 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, the authorised companion (if any) and any authorised child for the duration of the course of treatment; and
- (c) the necessary arrangements have been made for the return of that person, the authorised companion (if any) and any authorised child to their home country when the course of treatment is completed."

Amendment of Schedule 2 to the principal Regulations

7. In Schedule 2 (Countries or territories in respect of which the United Kingdom Government has entered into a reciprocal agreement), omit "Bulgaria" and "Romania".

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 11th September 2008



Christine Jendoubi
A senior officer of the
Department of Health, Social Services and Public Safety

Sealed with the Official Seal of the Department of Finance and Personnel on 11th September 2008



Mary McIvor
A senior officer of the
Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Order)

These regulations amend the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005 (“the principal Regulations”), which make provision as to the entitlement of, and exemptions from charges for services forming part of health services which may be provided to visitors to Northern Ireland.

Regulation 2 inserts definitions of “authorised child” and “authorised companion”.

Regulations 3(a), 5 and 6 enable the Department to make a determination in certain circumstances to exempt specified visitors from charges for specified services for exceptional humanitarian reasons as well as exempt from charges for treatment, the need of which arose during the course of a visit, specified persons who accompany a person to whom an exemption for exceptional humanitarian reasons applies.

Regulation 3(b) amends regulation 3 of the principal Regulations so as to extend those services forming part of health services to a visitor who is a missionary and to meet the United Kingdom’s obligations in relation to medical treatment under the Council of Europe Convention on Action against Human Trafficking.

The effect of meeting the United Kingdom’s obligations under the Council of Europe Convention on Action against Human Trafficking is to extend the exemption from charges to visitors set out in regulation 4 of the principal Regulations, to visitors who the United Kingdom has reasonable grounds to believe are victims within the meaning of Article 4 of the Convention (this exemption is limited to the recovery and reflection period recognised in Article 13 of the Convention), and those who have been identified as victims.

Regulation 4 substitutes regulation 4 of the principal Regulations so as to provide that the spouse, civil partner or child of a visitor to whom paragraphs (h), (i), (j), (k), (r) or (s) of regulation 3 of the principal Regulations applies is also exempt from charges. However, in all other remaining cases, it continues to be a requirement that the spouse, civil partner or child of a visitor also lives on a permanent basis with the visitor in the United Kingdom in order to be entitled to those health services.

Regulation 7 omits Bulgaria and Romania from the list in Schedule 2 to the principal Regulations, as these countries have now become part of the European Union and therefore visitors from these countries will be dealt with under regulation 3 of the principal Regulations.

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£4.00

Dd. N3767. C1. 9/08. Gp. 130. 14567.