

POLICY NOTE

THE NATIONAL HEALTH SERVICE (CHARGES TO OVERSEAS VISITORS) (SCOTLAND) AMENDMENT (NO. 3) REGULATIONS 2022

SSI 2022/335

The above instrument was made in exercise of the powers conferred by sections 98 and 105 of the National Health Service (Scotland) Act 1978. The instrument is subject to negative procedure.

Purpose of the instrument. This instrument ensures overseas visitors from the Bailiwick of Guernsey and Malta will not be charged for certain treatment provided by Health Boards in Scotland, in accordance with reciprocal healthcare agreements.

Policy Objectives

1. This instrument amends the NHS (Charges to Overseas Visitors) (Scotland) Regulations 1989 (S.I. 1989/364) (the 1989 Regulations). The 1989 Regulations provide for Health Boards in Scotland to make and recover charges from overseas visitors (anyone not ordinarily resident in the UK) for relevant services provided to them, unless the overseas visitor, or the service which they receive, is covered by one of a number of exemptions.
2. This instrument amends schedule 2 (countries or territories in respect of which the United Kingdom Government has entered into a reciprocal agreement) of the 1989 Regulations, inserting the Bailiwick of Guernsey and Malta. This ensures that overseas visitors from those places are not subject to charges when accessing certain treatments provided by Health Boards in Scotland, in accordance with the reciprocal healthcare arrangements in place between them and the UK.
3. The UK Government have reached agreement on a new reciprocal healthcare arrangement with Guernsey, Alderney and Sark (the Bailiwick of Guernsey) which will come into force on 1st January 2023.
4. The 1975 Health Care Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Malta (The Convention) sets out certain reciprocal healthcare arrangements for Maltese nationals in the UK and for UK nationals in Malta. While both the UK and Malta were EU Member States, although the Convention remained in force, specific provision for it under the 1989 Regulations was not necessary.
5. In common with all EU citizens, Maltese citizens can access certain services provided by Health Boards in Scotland, at no charge, as a result of the UK-EU Trade and Co-Operation Agreement (the TCA). However, arrangements under the Convention are distinct from those in the TCA and it is considered that post-EU exit special provision is required to ensure that Maltese nationals who come to Scotland to access certain treatments under the Convention are not charged.

Consultation

6. There is no statutory duty to consult in relation to this instrument. The Regulations will only impact on the administration of overseas visitor's charges within NHS Boards. However, Scottish Government will monitor the impact of these amendments on healthcare services.
7. The UK Government intend to lay a similar instrument amending the English overseas charging regulations, although the timetable for this has not yet been confirmed. Charging policy is a devolved matter, and the Scottish Government is responsible for taking forward any amendments to the 1989 Regulations.

Impact Assessments

8. There is no, or no significant, impact on business, charities or voluntary bodies.
9. The impact on the public sector is that the existing obligation on Health Boards and the providers of certain healthcare services to make and recover charges from overseas visitors from the Bailiwick of Guernsey and Malta when providing certain services is removed.
10. An equality impact assessment has not been completed for these minor amendments. Health Boards have a duty to comply with the Equality Act 2010 in the provision of NHS care and services.

Financial Effects

11. The Cabinet Secretary for Health and Social Care confirms that no BRIA is necessary, as the instrument has no, or no significant financial effect on the Scottish Government, local government or on business.

Guidance

12. The Scottish Government will provide guidance to Health Boards and NHS Inform who will be involved in the operation of these changes.

Contact

13. John Cameron (email: john.cameron@gov.scot) can be contacted with any queries regarding this instrument.

Scottish Government
Directorate for Healthcare Quality and Improvement

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