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STATUTORY INSTRUMENTS

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**2015 No. 238**

**The National Health Service (Charges  
to Overseas Visitors) Regulations 2015**

**PART 2**

Provision for making and recovery of charges

**Obligation to make and recover charges**

3.—(1) Where the condition specified in paragraph (2) is met, a [<sup>F1</sup>relevant body] must make and recover charges for any relevant services it provides to an overseas visitor from the person liable under regulation 4 (liability for payment of charges).

[<sup>F2</sup>(1A) Where the condition specified in paragraph (2) is met, before providing a relevant service in respect of an overseas visitor, a relevant body must secure payment for the estimated amount of charges to be made under paragraph (1) for that relevant service unless doing so would prevent or delay the provision of—

- (a) an immediately necessary service; or
- (b) an urgent service.

(1B) The person from whom payment is to be secured under paragraph (1A) in respect of a relevant service is the person who it appears to the relevant body, at the time that the request for that payment is made, will be the person to whom a charge will be made under paragraph (1) in respect of that relevant service at the time that it is provided.]

(2) The condition is that the [<sup>F1</sup>relevant body], having made such enquiries as it is satisfied are reasonable in all the circumstances, including in relation to the state of health of that overseas visitor, determines that the case is not one in which these Regulations provide for no charge to be made.

[<sup>F3</sup>(3) Where more than one relevant body is to provide relevant services to an overseas visitor, each relevant body must secure the advance payment sum in respect of each relevant service that it is to provide.

(3A) Where more than one relevant body provides relevant services to an overseas visitor, each relevant body must make and recover the actual charge in respect of each relevant service that it provides.

(4) A relevant body that makes and recovers a charge in accordance with paragraph (1) or secures payment in accordance with paragraph (1A) must give or send to the person making the payment a receipt for the amount paid.

(4A) In making and recovering an actual charge from a person in respect of a relevant service, a relevant body must—

- (a) deduct any advance payment sum secured by the relevant body from that person in respect of that relevant service; and

- (b) refund any amount by which an advance payment sum secured by the relevant body from that person in respect of that relevant service exceeds the amount of the actual charge that person is liable to pay.]
- (5) Subject to paragraph (6), where—
- (a) a [F1relevant body] has determined that an overseas visitor is exempt from being charged for relevant services under these Regulations, except where the overseas visitor is exempt from being charged by virtue of—
- (i) regulation 10 (immigration health charge);
  - (ii) regulation 11 (overseas visitors who have made applications for entry clearance or leave to remain prior to the commencement of the immigration health charge); F4...
  - (iii) regulation 25(3) (family members of overseas visitors – children born to a parent exempt under regulation 10 or 11); [F5or]
- [F6(iv) regulation 14 (reciprocal health care agreements);]
- (b) the overseas visitor has received relevant services from a [F1relevant body] as part of a course of treatment; and
- (c) prior to the course of treatment being completed, a [F1relevant body] has determined that the overseas visitor is no longer exempt from being charged for relevant services under these Regulations,

a [F1relevant body] may not make and recover charges under paragraph (1) in respect of relevant services provided as part of that course of treatment during a period where the overseas visitor has remained in the United Kingdom without absence.

(6) Paragraph (5) does not apply where a [F1relevant body] has determined that a person is exempt from being charged for relevant services as a result of that body receiving fraudulent or misleading information.

[F7(7) In this regulation—

“actual charge” means a charge to be made under paragraph (1);

“advance payment sum” means a sum to be secured under paragraph (1A);

“immediately necessary service” means—

- (a) antenatal services provided in respect of a person who is pregnant;
- (b) intrapartum and postnatal services provided in respect of—
  - (i) a person who is pregnant;
  - (ii) a person who has recently given birth; or
  - (iii) a baby; and
- (c) any other relevant service that the treating clinician determines the recipient needs promptly—
  - (i) to save the recipient’s life;
  - (ii) to prevent a condition becoming immediately life-threatening; or
  - (iii) to prevent permanent serious damage to the recipient from occurring;

“urgent service” means a service that the treating clinician determines is not an immediately necessary service but which should not wait until the recipient can be reasonably expected to leave the United Kingdom.]

#### Textual Amendments

- F1** Words in reg. 3 substituted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **3(1)**
- F2** Reg. 3(1A)(1B) inserted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **4(2)**
- F3** Reg. 3(3)-(4A) substituted for reg. 3(3)(4) (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **4(3)**
- F4** Word in reg. 3(5)(a)(ii) omitted (23.10.2017) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **4(4)(a)**
- F5** Word in reg. 3(5)(a)(iii) inserted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **4(4)(b)**
- F6** Reg. 3(5)(a)(iv) inserted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **4(4)(c)**
- F7** Reg. 3(7) inserted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **4(5)**

#### [<sup>F8</sup>Obligation to record information against an overseas visitor's consistent identifier

**3A.**—(1) An NHS foundation trust or an NHS trust that, in meeting its obligations under regulation 3, determines that a person is an overseas visitor must, as soon as it is practicable to do so, record against the overseas visitor's consistent identifier—

- (a) the fact that the person has been determined to be an overseas visitor;
- (b) the date on which that determination was made; and
- (c) whether Part 4 (overseas visitors exempt from charges) provides for no charge to be made.

(2) In this regulation, “consistent identifier” means a consistent identifier specified in regulation 2 of the Health and Social Care Act 2012 (Consistent Identifier) Regulations 2015.]

#### Textual Amendments

- F8** Reg. 3A inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), **5**

#### Liability for payment of charges

**4.**—(1) The person liable to pay charges under these Regulations is, unless paragraph (2), (3) or (4) applies, the overseas visitor in respect of whom the relevant services are provided.

(2) Where—

- (a) an overseas visitor is employed or engaged or works in any capacity on board a ship and whose normal place of work is on board a ship; and
- (b) that overseas visitor is present in the United Kingdom in the course of that employment, engagement or work,

the person liable to pay charges under these Regulations is the shipowner of the ship on which the overseas visitor is employed, engaged or works.

(3) Where an overseas visitor is an air crew member and is present in the United Kingdom in the course of that employment, the person liable to pay charges under these Regulations is the employer of that overseas visitor.

(4) Where an overseas visitor is a child, the person liable to pay charges under these Regulations is the person with parental responsibility for that child.

[<sup>F9</sup>(4A) Where, due to a change in circumstances occurring during the period in which a relevant service is provided, more than one person is liable under paragraphs (1) to (4) to pay charges under these Regulations in respect of that relevant service, each such person is liable to pay charges only in respect of relevant services provided during the period during which those paragraphs apply to that person.]

(5) In this regulation—

“air crew member” means any person employed or engaged in an aircraft in flight on the business of the aircraft;

“shipowner” has the meaning given in regulation 2(1) (interpretation) of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc) Regulations 2014 <sup>M1</sup>.

#### Textual Amendments

**F9** Reg. 4(4A) inserted (21.8.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(b), 6

#### Marginal Citations

**M1** [S.I. 2014/1613](#).

### [<sup>F10</sup>Repayment of a sum recovered or secured by a relevant body

5.—(1) A claim to a relevant body for repayment of a sum—

- (a) recovered in respect of charges made; or
- (b) secured in respect of an estimated amount of charges to be made,

under these Regulations may be made by the person who paid the sum to the relevant body (“the claimant”).

(2) When making a claim under paragraph (1), the claimant must provide to the relevant body—

- (a) the receipt for payment of the sum or other evidence of the claimant’s having paid the sum;
- (b) a declaration in support of the claim signed by or on behalf of the claimant; and
- (c) such other evidence in support of the declaration as the relevant body may require.

(3) Where a claimant makes a claim under paragraph (1) and the relevant body is satisfied that any sum was paid to it by the claimant in respect of—

- (a) a charge that should not have been made and recovered under these Regulations;
- (b) a relevant service that was not, or will not in the reasonably foreseeable future be, provided by the relevant body;
- (c) an advance payment sum, which was paid by or on behalf of a person who is not liable to pay an actual charge in respect of the relevant service to which the advance payment sum relates; or
- (d) a charge that should not have been recovered as a consequence of regulation 6A(2)(b) (provision relating to victims of female genital mutilation and supported individuals),

the relevant body must repay that sum to the claimant.]

### Textual Amendments

**F10** Reg. 5 substituted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), 7

### Provision relating to recovery of charges in respect of refugees and victims of [F11 modern slavery]

- 6.—(1) This paragraph applies to an overseas visitor who—
- (a) received relevant services from a [F12 relevant body];
  - (b) subsequent to receiving the relevant services, has become an overseas visitor who is exempt from charges under—
    - (i) regulation 15(a) (refugees F13 ...); or
    - (ii) regulation 16 (victims of [F14 modern slavery]); and
  - (c) at the time that the overseas visitor received the relevant services—
    - (i) where paragraph (1)(b)(i) applies, was in the United Kingdom for the purpose of making an application to be granted temporary protection, asylum or humanitarian protection under the immigration rules, but had not made that application; or
    - (ii) where paragraph (1)(b)(ii) applies, was a person to whom regulation 16 applies but had not yet been identified as such.
- [F15(1A) This paragraph applies to an overseas visitor who—
- (a) received relevant services from a relevant body;
  - (b) subsequent to receiving the relevant services, has become an overseas visitor who is exempt from charges under—
    - (i) regulation 15(aa) (dependants of refugees); or
    - (ii) regulation 25(1A) (family members of victims of modern slavery); and
  - (c) at the time that the overseas visitor received the relevant services—
    - (i) where paragraph (1A)(b)(i) applies—
      - (aa) that visitor was a dependant of another overseas visitor (“the principal overseas visitor”); and
      - (bb) the principal overseas visitor was in the United Kingdom for the purpose of making an application to be granted temporary protection, asylum or humanitarian protection under the immigration rules, but had not made that application; or
    - (ii) where paragraph (1A)(b)(ii) applies—
      - (aa) that visitor was a family member of another overseas visitor (“the principal overseas visitor”); and
      - (bb) the principal overseas visitor was a person to whom regulation 16 (victims of modern slavery) applies but had not yet been identified as such.]
- (2) An overseas visitor to whom paragraph (1) [F16 or (1A)] applies is to be treated for the purposes of these Regulations as if, at the time that the relevant services were provided, the overseas visitor was an overseas visitor in respect of whom no charge may be made or recovered for the relevant services.

(3) A [<sup>F12</sup>relevant body] which, in respect of an overseas visitor to whom paragraph (1) [<sup>F17</sup>or (1A)] applies, has—

- (a) yet to make charges under regulation 3 (obligation to make and recover charges), must not make the charges;
- (b) made charges under regulation 3 but has yet to recover the charges, must not recover the charges; or
- (c) made charges under regulation 3 and received payment in respect of the charges, must repay any sum paid in respect of the charges in accordance with regulation 5 [<sup>F18</sup>(repayment of a sum recovered or secured by a relevant body)].

#### Textual Amendments

- F11** Words in reg. 6 heading substituted (1.2.2016) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2015 \(S.I. 2015/2025\)](#), regs. 1(1), **6(2)(a)**
- F12** Words in reg. 6 substituted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **3(1)**
- F13** Words in reg. 6(1)(b)(i) omitted (28.12.2022) by virtue of [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 4\) Regulations 2022 \(S.I. 2022/1253\)](#), regs. 1(1), **2(3)(a)**
- F14** Words in reg. 6(1)(b)(ii) substituted (1.2.2016) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2015 \(S.I. 2015/2025\)](#), regs. 1(1), **6(2)(a)**
- F15** Reg. 6(1A) inserted (28.12.2022) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 4\) Regulations 2022 \(S.I. 2022/1253\)](#), regs. 1(1), **2(3)(b)**
- F16** Words in reg. 6(2) inserted (28.12.2022) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 4\) Regulations 2022 \(S.I. 2022/1253\)](#), regs. 1(1), **2(3)(c)**
- F17** Words in reg. 6(3) inserted (28.12.2022) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 4\) Regulations 2022 \(S.I. 2022/1253\)](#), regs. 1(1), **2(3)(c)**
- F18** Words in reg. 6(3)(c) substituted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **8**

#### [<sup>F19</sup>Provision relating to victims of female genital mutilation and supported individuals

**6A.—(1)** This paragraph applies to an overseas visitor who received relevant services from a [<sup>F20</sup>relevant body] during the period beginning on 6th April 2015 and ending on 31st January 2016, where—

- (a) those services were provided for the treatment of a condition, which was caused by female genital mutilation in the circumstances described in paragraph (d) of the definition of “female genital mutilation” in regulation 8(1) (interpretation of this part); or
- (b) at the time the relevant services were provided—
  - (i) the overseas visitor was a person in respect of whom an application to be granted temporary protection, asylum or humanitarian protection under the immigration rules had been rejected; and
  - (ii) the overseas visitor was supported under Part 1 (care and support) of the Care Act 2014 by the provision of accommodation.

(2) A [<sup>F20</sup>relevant body] which, in respect of an overseas visitor to whom paragraph (1) applies, has—

- (a) yet to make a charge under regulation 3 (obligation to make and recover charges), must not make the charges; or

- (b) made charges under regulation 3 but has yet to recover the charges, must not recover the charges.]

**Textual Amendments**

- F19** Reg. 6A inserted (1.2.2016) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2015 \(S.I. 2015/2025\)](#), regs. 1(1), **3**
- F20** Words in reg. 6A substituted (23.10.2017) by [The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) Regulations 2017 \(S.I. 2017/756\)](#), regs. 1(2)(a), **3(1)**

**Charges imposed on overseas visitors**

7.—(1) The [<sup>F21</sup>relevant body] must calculate charges made under these Regulations [<sup>F22</sup>, including where charges are estimated for the purposes of determining an advance payment sum.] in accordance with this regulation.

<sup>F23</sup>(2) .....

(3) [<sup>F24</sup>Unless paragraph (3A) applies], the charge payable in respect of each relevant service provided to an overseas visitor shall be equal to the [<sup>F25</sup>amount payable] for that relevant service multiplied by 150 per cent.

[<sup>F26</sup>(3A) Where an overseas visitor who is ordinarily resident in an EEA state or Switzerland has—

- (a) before IP completion day received relevant services from a relevant body, or
- (b) on or after IP completion day received relevant services from a relevant body as part of a course of treatment which commenced before IP 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.]

[<sup>F27</sup>(3B) In this regulation “amount payable” has the meaning set out in paragraphs (3C) to (3H).

(3C) Where the rules contained in the NHS payment scheme specify a price for a relevant service, that is the amount payable for that service.

(3D) Where the rules contained in the NHS payment scheme specify amounts, agreements, formulae or other matters on the basis of which the price for a relevant service is to be determined, the amount payable for that service is the price that would apply as specified in those rules if the service were provided to a person ordinarily resident in the United Kingdom.

(3E) Where the rules contained in the NHS payment scheme provide for prices to be determined for, or by reference to, components of a relevant service, the amount payable for that service is the price that would apply for the whole service, if the service were provided to a person ordinarily resident in the United Kingdom, as calculated using the price for each component.

(3F) Where the rules contained in the NHS payment scheme provide for prices to be determined for, or by reference to, a group of services of which the relevant service is a part, the amount payable for that service is the price that would apply for the proportion of the group of services that the relevant service represents, if the services were provided to a person ordinarily resident in the United Kingdom.

(3G) Where the NHS payment scheme does not contain rules for determining the price for a relevant service as described by paragraphs (3C) to (3F), the amount payable for that service is such reasonable charge that the relevant body determines having had regard to the matters set out in paragraph (3H).

(3H) The matters to which the relevant body must have regard for the purposes of determining the amount payable for a relevant service under paragraph (3G) are—

- (a) the actual cost that would be payable to the relevant body by the commissioner, in accordance with the rules contained in the NHS payment scheme, in respect of the relevant service, if the service were provided to a person ordinarily resident in the United Kingdom; and
- (b) where the relevant service would normally be commissioned as part of a group of services, the proportion of the group of services that the service provided to the overseas visitor represents.]

- F28(4) .....
- F28(5) .....
- F28(6) .....
- F28(7) .....
- F28(8) .....
- F28(9) .....
- F28(10) .....
- F28(11) .....
- F28(12) .....

[<sup>F29</sup>(13) For the purposes of this regulation, “NHS payment scheme” means the document published under section 114A(1) of the Health and Social Care Act 2012.]

- F30(14) .....

<b>Textual Amendments</b>	
<b>F21</b>	Words in reg. 7 substituted (23.10.2017) by <a href="#">The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756)</a> , regs. 1(2)(a), <b>3(1)</b>
<b>F22</b>	Words in reg. 7(1) inserted (23.10.2017) by <a href="#">The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756)</a> , regs. 1(2)(a), <b>9(a)</b>
<b>F23</b>	Reg. 7(2) omitted (31.12.2020) by virtue of <a href="#">The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423)</a> , regs. 1(2), <b>4(a)</b>
<b>F24</b>	Words in reg. 7(3) substituted (31.12.2020) by <a href="#">The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423)</a> , regs. 1(2), <b>4(b)</b>
<b>F25</b>	Words in reg. 7(3) substituted (1.4.2023) by <a href="#">The Health and Care Act 2022 (Consequential and Related Amendments) Regulations 2023 (S.I. 2023/306)</a> , regs. 1(1), <b>3(2)</b>
<b>F26</b>	Reg. 7(3A) inserted (31.12.2020) by <a href="#">The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423)</a> , regs. 1(2), <b>4(c)</b>
<b>F27</b>	Reg. 7(3B)-(3H) inserted (1.4.2023) by <a href="#">The Health and Care Act 2022 (Consequential and Related Amendments) Regulations 2023 (S.I. 2023/306)</a> , regs. 1(1), <b>3(3)</b>
<b>F28</b>	Reg. 7(4)-(12) omitted (1.4.2023) by virtue of <a href="#">The Health and Care Act 2022 (Consequential and Related Amendments) Regulations 2023 (S.I. 2023/306)</a> , regs. 1(1), <b>3(4)</b>
<b>F29</b>	Reg. 7(13) substituted (1.4.2023) by <a href="#">The Health and Care Act 2022 (Consequential and Related Amendments) Regulations 2023 (S.I. 2023/306)</a> , regs. 1(1), <b>3(5)</b>
<b>F30</b>	Reg. 7(14) omitted (23.10.2017) by virtue of <a href="#">The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756)</a> , regs. 1(2)(a), <b>9(b)</b>



**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Charges to Overseas Visitors) Regulations 2015, PART 2.