

2022 No. 1253

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (Charges to Overseas Visitors)
(Amendment) (No. 4) Regulations 2022**

<i>Made</i>	- - - -	<i>28th November 2022</i>
<i>Laid before Parliament</i>		<i>30th November 2022</i>
<i>Coming into force</i>		<i>28th December 2022</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 175 and 272(7) and (8) of the National Health Service Act 2006(a).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Health Service (Charges to Overseas Visitors) (Amendment) (No. 4) Regulations 2022 and come into force on 28th December 2022.

(2) These Regulations extend to England and Wales.

Amendment of the National Health Service (Charges to Overseas Visitors) Regulations 2015

2.—(1) The National Health Service (Charges to Overseas Visitors) Regulations 2015(b) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “competent institution”(c) insert—

““domestic abuse” has the meaning given in Part 1 of the Domestic Abuse Act 2021(d);”;

(b) after the definition of “equivalent document”(e) insert—

““healthcare” means all forms of healthcare provided for individuals, whether relating to mental or physical health, and includes related ancillary care;

“healthcare agreement” means an agreement or other commitment between the United Kingdom and either a country or territory outside the United Kingdom or an international organisation, concerning healthcare provided anywhere in the world;”;

(c) after the definition of “immigration rules” insert—

““international organisation” means an organisation of which—

(a) 2006 c. 41. By virtue of section 271(1) the powers of the Secretary of State are exercisable only in relation to England. See section 275(1) for the definition of “prescribed” and “regulations”.

(b) S.I. 2015/238 (“the 2015 Regulations”), amended by S.I. 2015/2025, 2017/756, 2020/1423 and 2022/614; there are other amending instruments but none is relevant.

(c) The definition of “competent institution” was inserted by S.I.2020/1423.

(d) 2021 c.17.

(e) The definition of “equivalent document” was inserted by S.I.2020/1423.

- (a) two or more sovereign powers are members; or
 - (b) the governments of two or more sovereign powers are members;”;
 - (d) omit the definition of “reciprocal agreement”.
- (3) In regulation 6(a) (provision relating to recovery of charges in respect of refugees and victims of modern slavery)—
- (a) in paragraph (1)(b)(i), omit the words in brackets after “refugees”;
 - (b) after paragraph (1) insert—
 - “(1A) This paragraph applies to an overseas visitor(b) who—
 - (a) received relevant services(c) from a relevant body(d);
 - (b) subsequent to receiving the relevant services, has become an overseas visitor who is exempt from charges under—
 - (i) regulation 15(aa)(e) (dependants of refugees); or
 - (ii) regulation 25(1A)(f) (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(g) (victims of modern slavery) applies but had not yet been identified as such.”;
 - (c) in paragraphs (2) and (3), after “paragraph (1)” insert “or (1A)”.
- (4) In regulations 8(2)(a)(h) (interpretation of Part 3) and 9(1)(f)(iii)(i) (relevant services exempt from charges), for “domestic violence” substitute “domestic abuse”.
- (5) For regulation 14 (reciprocal health care agreements), including its heading, substitute—

“Healthcare agreements

14. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor under a healthcare agreement with a country, territory or international organisation specified in Schedule 2.”.

- (6) For regulation 15(aa) substitute—
- “(aa) is a dependant of a person described in paragraph (a) (“the principal overseas visitor”) and—

(a) Regulation 6 was substituted by S.I. 2015/2025 and amended by S.I. 2017/756.
 (b) See regulation 2 of the 2015 Regulations for the definition of “overseas visitor”.
 (c) See regulation 2 of the 2015 Regulations for the definition of “relevant services”.
 (d) See regulation 2 of the 2015 Regulations for the definition of “relevant body”.
 (e) Regulation 15(aa) was inserted by S.I. 2017/756.
 (f) Regulation 25(1A) is inserted by these Regulations.
 (g) Regulation 16 was substituted by S.I. 2015/2025.
 (h) There are amendments to regulation 8 but none is relevant.
 (i) Regulation 9 was renumbered by S.I. 2022/614.

- (i) has leave to enter or remain in the United Kingdom as the dependant of the principal overseas visitor; or
- (ii) is born in the United Kingdom to the principal overseas visitor.”.

(7) In regulation 25(a) (family members of overseas visitors)—

(a) after paragraph (1) insert—

“(1A) 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 the principal overseas visitor is exempt from charges under regulation 16 (victims of modern slavery).”;

(b) omit paragraph (2)(a).

(8) In Schedule 2(b) (healthcare agreements)(c)—

(a) for the heading “Reciprocal agreements” substitute “Healthcare agreements”;

(b) after “Australia” insert “Bailiwick of Guernsey”;

(c) after “Gibraltar” insert “Iceland”;

(d) after “Kosovo” insert “Liechtenstein” and “Malta”.

Signed by authority of the Secretary of State for Health and Social Care

Will Quince
Minister of State,
Department of Health and Social Care

28th November 2022

(a) There are amendments to regulation 25 but none is relevant.
(b) Schedule 2 was amended by S.I. 2015/2025 and 2020/1659; there are other amending instruments but none is relevant.
(c) The title of Schedule 2 is amended by these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 2015 (S.I. 2015/238), which provide for the making and recovery of charges for relevant services provided under the National Health Service Act 2006 (c. 41) to overseas visitors (people who are not ordinarily resident in the United Kingdom).

Regulations 2(2)(a) and 2(4) amend the domestic violence exemption by inserting the definition of “domestic abuse” from the Domestic Abuse Act 2021 (c. 17).

Regulations 2(2)(b)-(d), 2(5) and 2(8)(a) amend the healthcare agreement exemption from charges to ensure the definition is consistent with section 3 of the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 (c. 14), as amended by section 162 of the Health and Care Act 2022 (c. 31).

Regulation 2(3) extends the exemption from charges for prior treatment for those subsequently granted protection under immigration rules (“refugees”), to include their dependants, and for those subsequently identified as victims of modern slavery, to include their family members. Regulation 2(6) amends the exemption from charges for dependants of refugees, so as to include dependants who are born in the United Kingdom to refugees.

Regulation 2(7) amends the exemption for family members of victims of modern slavery, removing the requirement that the family member is lawfully present in the United Kingdom.

Regulation 2(8) adds the Bailiwick of Guernsey, Iceland, Liechtenstein and Malta to the list of healthcare agreements in Schedule 2.

A full impact assessment has not been produced for these Regulations as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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