SCOTTISH STATUTORY INSTRUMENTS

2004 No. 369

NATIONAL HEALTH SERVICE

The National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2004

Made - - - -	*1st September 2004*
Laid before the Scottish Parliament - - - -	*3rd September 2004*
Coming into force - -	*28th September 2004*

The Scottish Ministers, in exercise of the powers conferred on them by sections 98, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2004 and shall come into force on 28th September 2004.

(2) In these Regulations, a reference to "the principal Regulations" is a reference to the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989(**2**).

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (citation, commencement and interpretation) after the definition of "the Act" insert–

> ""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 6A or is the child of an authorised companion;

(**1**) 1978 c. 29; section 98 was amended by the Health and Medicines Act 1988 (c. 49), section 7(13) and (14); section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24 and by the Health Act 1999 (c. 8), Schedule 4, paragraph 60, contains provisions relevant to the exercise of the powers under which these Regulations are made; section 108(1) contains definitions of "prescribed" and "regulations" relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) S.I.1989/364 amended by S.I. 1992/411, 1994/1770 and 1998/251.

"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 6A;".

Amendment of regulation 4 of the principal Regulations

3.—(1) In regulation 4 of the principal Regulations (overseas visitors exempt from charges)–

(a) at the beginning for the number of the regulation "4." substitute "4.—(1)";

(b) in paragraph (b)–

(i) after "who has resided" insert "lawfully"; and

(ii) for "the completion of one years' residence as aforesaid" substitute "this residence qualification being met"; and

(c) in paragraph (k) after "ten years' continuous" insert "lawful".

(2) At the end of regulation 4 insert–

"(2) Where it is established that a person does not meet the residence qualification in paragraph (1)(b) and that person has already received services as part of a course of treatment on the basis that no charges would be made, no charges may be made for the remainder of that course of treatment.".

Exemption from charges during long term visits by United Kingdom pensioners

4. After regulation 4 (overseas visitors exempt from charges) insert a new regulation–

"**Exemption from charges during long term visits by United Kingdom pensioners**

4A. No charge shall be made or recovered in respect of any overseas visitor, being a person or the spouse or child of a person, who–

(a) is in receipt of a retirement pension under the Social Security Contributions and Benefits Act 1992(**3**) or the Social Security (Contributions and Benefits) (Northern Ireland) Act 1992(**4**);

(b) has resided in the United Kingdom for six months or more and in another member State for six months or less in the year immediately preceding the time when the services mentioned below are provided; and

(c) is not registered as a resident of another member State,

for services forming part of the health service which he receives during the period he resides in the United Kingdom.".

Amendment of regulation 5 of the principal Regulations

5. In regulation 5 (exemption from charges for treatment the need for which arose during the visit)–

(a) in–

(i) paragraph (b) after "ten years' continuous" where they first appear; and

(ii) in paragraph (e) after "ten years' continuous",

insert "lawful";

(**3**) 1992 c. 4.
(**4**) 1992 c. 7.