STATUTORY INSTRUMENTS

2015 No. 2025

NATIONAL HEALTH SERVICE, ENGLAND

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

Made - - - -	*14th December 2015*
Laid before Parliament	*17th December 2015*
Coming into force - -	*1st February 2016*

The Secretary of State for Health 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(**1**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2015 and come into force on 1st February 2016.

(2) In these Regulations, "the Principal Regulations" means the National Health Service (Charges to Overseas Visitors) Regulations 2015(**2**).

Amendment to regulation 5 of the Principal Regulations

2. In regulation 5(1) of the Principal Regulations (repayment of charges made and recovered by relevant NHS bodies)—

(a) in paragraph (a), after the semi-colon, omit "or";

(b) in paragraph (b), after "payable", omit the comma and insert "; or"; and

(c) after paragraph (b), add—

"(c) received relevant services in respect of which the charge should not have been recovered as a consequence of regulation 6A(2)(b) (provision relating to victims of female genital mutilation and supported individuals),".

(**1**) 2006 c.41. By virtue of section 271(1) of the National Health Service Act 2006 ("the 2006 Act"), the powers of the Secretary of State exercised in making these Regulations are exercisable only in relation to England. See section 275(1) of the 2006 Act for the definition of "prescribed" and "regulations".

(**2**) S.I. 2015/238.

Provision relating to victims of female genital mutilation and supported individuals

3. After regulation 6 of the Principal Regulations (provision relating to recovery of charges in respect of refugees and victims of human trafficking), insert—

"**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 relevant NHS 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 relevant NHS 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."(**3**).

Amendment to regulation 8 of the Principal Regulations

4.—(1) Regulation 8(1) of the Principal Regulations (interpretation of this part) is amended as follows.

(2) In the definition of "female genital mutilation"—

(a) in paragraph (b), after the semi-colon, omit "or";

(b) in paragraph (c), after the semi-colon, insert "or"; and

(c) after paragraph (c) add—

"(d) if the mutilation was performed outside the United Kingdom prior to the coming into force of the 2003 Act, that mutilation would have constituted an offence under the 2003 Act if—

(i) the mutilation had been performed in the United Kingdom; and

(ii) the 2003 Act had been in force at the time the mutilation was performed;".

(3) Omit the definition of "girl".

(**3**) The relevant provisions relating to support, by the provision of accommodation, under Part 1 of the Care Act 2014 (c.23) were commenced on or before 1st April 2015.

Amendment to regulation 15 of the Principal Regulations

5. In regulation 15 of the Principal Regulations (refugees, asylum seekers, supported individuals and looked after children), in paragraph (d)—

(a) in sub-paragraph (i), after the semi-colon, omit "or";

(b) after sub-paragraph (ii), add—

"(iii) Part 1 (care and support) of the Care Act 2014 by the provision of accommodation; or".

Provision relating to modern slavery

6.—(1) For regulation 16 of the Principal Regulations (victims of human trafficking), substitute —

"**Victims of modern slavery**

16.—(1) No charge may be made or recovered in respect of any relevant services provided to an overseas visitor, where a competent authority—

(a) has identified the overseas visitor as a victim of modern slavery; or

(b) considers that there are reasonable grounds to believe that the overseas visitor is a victim of modern slavery, and—

(i) a competent authority is required to make a conclusive determination; and

(ii) there has not been a conclusive determination by a competent authority that the overseas visitor is not a victim of modern slavery.

(2) In this regulation—

"competent authority" means a designated competent authority of the United Kingdom for the purposes of the Trafficking Convention;

"Trafficking Convention" means the Council of Europe Convention on Action against Trafficking in Human Beings (agreed at Warsaw on 16th May 2005);

"victim of modern slavery" means a victim of—

(a) trafficking in human beings, which has the same meaning as in the Trafficking Convention, as set out in article 4 of that Convention; or

(b) slavery, servitude, or forced or compulsory labour, which have the same meaning as they have for the purposes of article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms (agreed at Rome on 4th November 1950).".

(2) In the Principal Regulations—

(a) in the heading to regulation 6 (provision relating to recovery of charges in respect of refugees and victims of human trafficking) and in paragraph (1)(b)(ii) of that regulation; and

(b) in regulation 25(2)(a) (family members of overseas visitors),

for "human trafficking", substitute "modern slavery".

Amendment to Schedule 1 to the Principal Regulations

7. In Schedule 1 to the Principal Regulations (diseases for which no charge is to be made for treatment), insert in the appropriate alphabetical position "Middle East Respiratory Syndrome (MERS)".