WELSH STATUTORY INSTRUMENTS

2004 No. 1433 (W.146)

NATIONAL HEALTH SERVICE, WALES

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

Made - - - -	*25th May 2004*
Coming into force - -	*31st May 2004*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 121 and 126(4) of the National Health Service Act 1977(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2004 and shall come into force on 31st May 2004.

(2) These Regulations apply to Wales.

(3) In these Regulations "the principal Regulations" ("*y prif Reoliadau*") means the National Health Service (Charges to Overseas Visitors) Regulations 1989(**2**).

Commencement Information

I1 Reg. 1 in force at 31.5.2004, see **reg. 1(1)**

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (citation, commencement and interpretation) in the appropriate alphabetical position insert —

(**1**) 1977 c. 49; *see* section 128 (1) as amended by section 26(2)(g) and (i) of the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), for the definitions of "prescribed" and "regulations". Section 126 (4) was amended by paragraph 37(6) of Schedule 4 to the Health Act 1999 (c. 8) ("the 1999 Act"); section 65(2) of the 1990 Act, section 65(1) of, and paragraphs 4 and 37(1) and (6) of Schedule 4 to, the 1999 Act, section 67(1) of, and paragraph 5(1) and (13)(b) of Schedule 5 to, the Health and Social Care Act 2001 (c. 15) and sections 6(3)(c) and 37(1) of, and paragraphs 1 and 10(a) of Schedule 8 to, the National Health Service Reform and Health Care Professions Act 2002 (c. 17) and section 184 of, and paragraph 38 of Schedule 11 and part 4 of Schedule 14 to, to Health and Social Care (Community Health and Standards) Act 2003 (c. 43). The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.

(**2**) S.I.1989/306.

""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;

"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;

"the United Kingdom Government" as referred to in regulation 4(1)(a)(iii) includes the National Assembly for Wales.".

Commencement Information

I2 Reg. 2 in force at 31.5.2004, see **reg. 1(1)**

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 the opening words delete the words "being a person, or the spouse or child of a person";

(c) in paragraph (a) —

(i) delete the words ", if his employer has his principal place of business in the United Kingdom";

(ii) for sub-paragraph (i) substitute —

"(zi) engaging in employment with an employer which has its principal place of business in the United Kingdom or which is registered in the United Kingdom as a branch of an overseas company, or

(i) being a self employed person whose principal place of business is in the United Kingdom;";

(iii) delete sub-paragraph (iii) and substitute —

"(iii) pursuing a full time course of study which is substantially funded by the United Kingdom Government or is of at least six months duration;";

(d) for paragraph (b) substitute the following paragraph —

"(b) who has resided lawfully in the United Kingdom for a period of not less than one year immediately preceding the time when the services are provided unless this period of residence followed the grant of leave to enter the United Kingdom for the purpose of undergoing private medical treatment or a determination under regulation 6A;";

(e) in paragraph (c) after the words "United Kingdom" where they occur for the second time insert "which has not yet been determined";

(f) in paragraph (k) —

(i) after the words "ten years continuous" insert the word "lawful",

(ii) after the words "United Kingdom" where they occur for the second time delete the words to the end and substitute "that has lasted for a period of no more than five years.".

(2) At the end of regulation 4 add the following paragraphs —

"(2) Where a person meets the residence qualification in paragraph (1)(b) on a date during a course of treatment for which charges could have been made prior to that date no charge shall be made in respect of services received subsequently;

(3) 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.

(4) No charge shall be made in respect of any services forming part of the health service provided for the spouse or child of an overseas visitor to whom this regulation applies where he lives on a permanent basis with the overseas visitor in the United Kingdom.".

Commencement Information
I3 Reg. 3 in force at 31.5.2004, see **reg. 1(1)**

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.—(1) No charge shall be made or recovered in respect of any overseas visitor 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) resides in the United Kingdom for at least six months and in another Member State for less than six months each year; 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.

(2) No charge shall be made in respect of any services forming part of the health service provided for the spouse or child of an overseas visitor to whom this regulation applies where he lives on a permanent basis with the overseas visitor during the period they reside in the United Kingdom.".

Commencement Information
I4 Reg. 4 in force at 31.5.2004, see **reg. 1(1)**

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 paragraphs (b) and (e) after the words "ten years continuous" insert the word "lawful";

(b) after paragraph (e) add the following —

", or

(**3**) 1992 c. 4.
(**4**) 1999 c. 7.