STATUTORY RULES OF NORTHERN IRELAND

2015 No. 27

HEALTH AND PERSONAL SOCIAL SERVICES

Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015

Made - - - -	*30th January 2015*
Coming into operation	*23rd February 2015*

The Department of Health, Social Services and Public Safety [F1], in exercise of the powers conferred by Articles 42, 106(b) and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972 [F2], in conjunction with the Department of Finance and Personnel, makes the following Regulations:

F1 See S.I. 1999/283 (N.I. 1) Article 3(6)
F2 S.I. 1972/1265 (N.I. 14)

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 and shall come into operation on 23rd February 2015.

Interpretation

2.—(1) In these Regulations—

"authorised child" means a child who—

(a) has been granted leave to enter the United Kingdom with a parent or legal guardian for the purpose of the parent or legal guardian receiving a course of treatment in respect of which no charge may be made or recovered under regulation 11; or

(b) is a 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 charge may be made or recovered under regulation 11;

"Board" means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 [F3];

"child" means a person who is—

(a) under the age of sixteen; or

(b) a qualifying young person within the meaning of section 138 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F4] or section 142 of the Social Security Contributions and Benefits Act 1992 [F5] ("Child" and "qualifying young person";

"Continental Shelf" except in reference to a designated area of the Continental Shelf, means the sea bed and subsoil of the submarine area (other than in the Baltic or Mediterranean Seas, including the Adriatic and Aegean, or the Black Sea), adjacent to the coasts, lying north of the latitude of 25 degrees north and between the longitude of 30 degrees west and 35 degrees east, of the territory (including islands) of—

(a) any country situated on the Continent of Europe; or

(b) the Republic of Ireland;

where the submarine area is outside the seaward limits of the territorial limits of those countries and the Republic of Ireland and is an area with respect to which the exercise by any of them of sovereign rights in accordance with international law is recognised by the Government of the United Kingdom;

"core hours" means the period beginning at 8am and ending at 6.30pm on any day from, and including, Monday to Friday except a public holiday and a local holiday agreed with the Board;

"designated area of the Continental Shelf" means any area which is for the time being designated by an Order in Council under section 1(7) of the Continental Shelf Act 1964 [F6] as an area within which the rights of the United Kingdom with respect to the sea bed and subsoil and their natural resources may be exercised;

[F7]...

"general health services" means Part VI services being primary medical services, general dental services, general ophthalmic services or pharmaceutical services, provided under the Order;

"GMS Contracts Regulations" means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004 [F8];

"health professional" means a person other than a social worker who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 [F9], (the Professional Standards Authority for Health and Social Care;

"HSC trust" means a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 [F10];

"the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972";

[F11]...

[F12]...

[F13]...

"Personal Dental Services" means dental services of a kind that may be provided by a general dental practitioner in accordance with Part VI of the Order;

"Primary Medical Services" means services of a kind that may be provided by a general medical practitioner in accordance with arrangements under Article 57A of the Order;

"reciprocal agreement" means arrangements mutually agreed between the Government of the United Kingdom and the Government of a country or territory outside the United Kingdom for the provision of health care;

"refugee" means a person who is a refugee within the meaning of Article 1 of the Convention relating to the Status of Refugees 1951 [F14] and Article 1 of the Protocol relating to the Status of Refugees 1967 [F15] and any other person taking refuge in the territory of a member State with leave of the Government of that State;

"regulation (EC) 883/2004" means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29th April 2004 on the coordination of social security systems [F16]

"services forming part of health services" means accommodation, services and other facilities provided under Article 5 of the Order (the Department's duty to provide accommodation and medical services, etc) and includes accommodation, services and other facilities provided by a HSC trust, but does not include any accommodation, service or facility made available or provided under—

(a) Article 31 of the Order (accommodation and services for private patients);

(b) Article 3(2) of the Health and Medicines (Northern Ireland) Order 1988 [F17] (powers to make more income available for improving health services); or

(c) paragraph 14 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991 [F18] (accommodation and services for private patients of HSC trusts);

"ship or vessel" includes hovercraft;

"treatment the need for which arose during the visit" means—

(a) diagnosis of symptoms or signs occurring for the first time after the visitor's arrival in the United Kingdom; or

(b) treatment which, in the opinion of a medical practitioner or dental practitioner employed by, or under contract with, a Board or a HSC trust, is required promptly for a condition which—

(i) arose after the visitor's arrival in the United Kingdom;

(ii) became acutely exacerbated after the visitor's arrival; or

(iii) but for the treatment would be likely to become acutely exacerbated after the visitor's arrival;

[F19]...

"visitor" means a person not ordinarily resident in Northern Ireland.

(2) In calculating a period of residence in Northern Ireland for the purposes of these Regulations, any interruption by reason of temporary absence of not more than 182 days shall be disregarded. The temporary absence cannot include an absence where the visitor was not lawfully entitled to enter or remain in the United Kingdom.

F3 2009 c.1 (N.I.)
F4 1992 c. 7 section 138 was substituted by section 2(2) of the Child Benefit Act 2005 (c. 6)
F5 1992 c. 7 section 142 was substituted by section 1(2) of the Child Benefit Act 2005 (c. 6)
F6 1964 c. 29
F7 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/784), regs. 1(1), **9(2)(a)** (as amended by S.I. 2020/1348, reg. 16); 2020 c. 1, Sch. 5 para. 1(1)
F8 S.R. 2004 No. 140 as amended by S.R. 2004 No. 477, S.R. 2005 Nos. 230 and 368, S.R. 2006 No. 319, S.R. 2013 Nos. 59 and 301.

F9 2002 c.17. Section 25 has been amended by the Health and Social Care Act 2008 (c.14), section 113, **Schedule 10**, paragraph 17 and Schedule 15, Part 2; and by S.I. 2010/231 and the Health and Social Care Act 2012 (c.7), **sections 220** and 224.
F10 S.I. 1991/194 (N.I. 1)
F11 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/784), regs. 1(1), **9(2)(b)** (as amended by S.I. 2020/1348, reg. 16); 2020 c. 1, Sch. 5 para. 1(1)
F12 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/784), regs. 1(1), **9(2)(c)** (as amended by S.I. 2020/1348, reg. 16); 2020 c. 1, Sch. 5 para. 1(1)
F13 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/784), regs. 1(1), **9(2)(d)** (as amended by S.I. 2020/1348, reg. 16); 2020 c. 1, Sch. 5 para. 1(1)
F14 Cmd. 9171 of 1954
F15 Cmd. 3906 of 1968
F16 OJ No. L166. 30.04.2004. p1
F17 S.I. 1988/2249 (N.I. 24)
F18 S.I. 1991/194 (N.I. 1)
F19 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Health Services (Cross-Border Health Care and Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/784), regs. 1(1), **9(2)(e)** (as amended by S.I. 2020/1348, reg. 16); 2020 c. 1, Sch. 5 para. 1(1)

PART 2

SERVICES FORMING PART OF HEALTH SERVICES

Visitors to whom services forming part of health services shall be available

3. Services forming part of health services shall be available to any visitor at a charge determined by the Department, subject to regulations 4 to 23.

Services exempt from charges

4.—(1) Subject to paragraph (2), no charge may be made or recovered in respect of any services forming part of health services provided to a visitor which fall within the following paragraphs—

(a) accident and emergency services, whether provided at a hospital accident and emergency department, a minor injuries unit, or elsewhere, but not including any services provided—

(i) after the visitor has been accepted as an in-patient; or

(ii) at an outpatient appointment;

(b) services otherwise than at, or by staff employed to work at, or under the direction of a hospital;

(c) family planning services;

(d) treatment in respect of a disease listed in Schedule 1;

(e) treatment for sexually transmitted infections;

(f) treatment in respect of infection with any Human Immunodeficiency Virus;

(g) services provided to a visitor who is liable to be detained in a hospital or, received into guardianship under the Mental Health (Northern Ireland) Order 1986 [F20] or any other

transferred provision authorising orders for admission to, and detention in, hospital by reason of mental disorder; or

(h) treatment which is provided in circumstances where-

(i) a requirement to submit to the form of treatment concerned is imposed by, or included in, an order of a court; and

(ii) paragraph (g) does not apply.

(2) The services listed in paragraph (1)(a) – (h) are not exempt from charge if it appears that the visitor has travelled to Northern Ireland specifically to receive those services.

F20 S.I. 1986/595 (N.I. 4)

Visitors exempt from charges – lawful residence for 12 months

5.—(1) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who has resided lawfully in the United Kingdom for a period of not less than twelve months immediately preceding the time when such services are provided.

(2) Paragraph (1) does not apply to a person who has leave to enter the United Kingdom for the purpose of undergoing private medical treatment, or a person in relation to whom a determination under regulation 11 has been made.

(3) Where a person meets the residence qualification in paragraph (1) on a date during a course of treatment for which charges could have been made prior to that date, no charge may be made in respect of services subsequently received.

Visitors exempt from charges – presence for work, study etc, or to settle

6.—(1) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who the Board or HSC trust is satisfied would be present for any purpose specified in paragraph (2)—

(a) in the United Kingdom;

(b) in a designated area of the Continental Shelf;

(c) in or over any area of the Continental Shelf; or

(d) on a stationary structure within the territorial waters of the United Kingdom

if that visitor was present in Northern Ireland while being provided with the services forming part of health services.

(2) The purposes specified for this paragraph are—

(a) 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;

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

(c) working as a volunteer with a voluntary organisation that is providing a service to which Article 71 (arrangements with and assistance to voluntary organisations) of the Order applies, or a service similar to a relevant service as defined in sections 64 and 65 (financial and other assistance to certain voluntary organisations) of the Health Services and Public Health Act 1968 [F21];

(d) pursuing a full time course of study which is—

(i) substantially funded by the Northern Ireland departments, the Secretary of State, the Welsh Ministers or the Scottish Ministers; or