

# **SL(6)359 – The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) (Wales) Regulations 2023**

## **Background and Purpose**

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (“the Principal Regulations”), which provide for the making and recovery of charges for relevant services provided under the National Health Service (Wales) Act 2006 to certain persons not ordinarily resident in the United Kingdom.

Regulation 2(a) adds Bermuda, Cayman Islands and Pitcairn, Henderson, Ducie and Oeno Islands to the list of countries or territories with whom the UK Government has entered into a reciprocal agreement in Schedule 2 to the Principal Regulations. Regulation 2(b) amends St Helena to include Ascension and Tristan da Cunha.

Section 4 of the Explanatory Memorandum to the Regulations explains that the agreements set out that each Overseas Territory will be provided with a limited quota of places for patient referrals for treatment in the UK, the number of referrals notified by the UK from time to time. The UK has agreed with the Overseas Territories that this will be set at five patients per Overseas Territory per year at this time. Should any of these Overseas Territories be in receipt of Official Development Assistance, this quota will increase to 10 patients for the Overseas Territory in question. The quota is spread across a three-year period with a three-year rolling allocation of quota places. Any patients sent to the UK for treatment over and above the relevant quota will be charged at 100% of NHS tariff.

## **Procedure**

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

## **Technical Scrutiny**

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## **Merits Scrutiny**

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.



**1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.**

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

*“There is no statutory duty to consult prior to making the Regulations. It is considered that the proposed amendments do not require consultation as they are implementing UK international agreements which apply to the UK as a whole and thereby Wales is obliged to implement and observe them.”*

**Welsh Government response**

A Welsh Government response is not required.

**Legal Advisers**

**Legislation, Justice and Constitution Committee**

**19 May 2023**

