EXECUTIVE NOTE

The National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2008 SSI/2008/290

The above instrument is being made in exercise of the powers conferred by section 98, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978 ("the Act"). The instrument is subject to negative resolution procedure.

Policy Objectives

The purpose of the instrument is to amend the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 ("the principal Regulations") to extend the provisions relating to the exemption from charging of overseas visitors to include victims or possible victims of human trafficking, within the meaning of Article 4 of the Council of Europe Convention on Action Against Trafficking in Human Beings. The principal Regulations currently provide that no charge shall be made for certain forms of medical treatment where the individual being treated falls within one of the exemption categories at Regulation 4 or 4A. This amendment will include in the exempted categories persons who have been identified as possible or actual victims of trafficking in Regulation 4.

This amendment will ensure that Scottish legislation and procedures are compliant with the Council of Europe Convention on Action Against Trafficking in Human Beings ("the Convention") when the UK ratification process begins later this year. Article 12(1)(b) of the Convention requires that all victims of human trafficking should have access to "emergency medical treatment". It then goes further by stating, at Article 12(3): "in addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help." By adding victims or possible victims of human trafficking to the exemption list at regulation 4 of the principal Regulations, the terms of the Convention will be met.

The definition of "services forming part of the health service" in Regulation 1(2) is also being amended to remove references to general dental services, personal dental services and general ophthalmic services which were inserted in 2006. A reference to the supply sight tests, eye examinations, dental examinations and oral health assessments will replace these references with effect from 6th October 2008. The 2006 amendment went further than the policy intention to provide persons in the exempt categories with sight tests, eye examinations, dental examinations and oral health assessments free of charge. The definition is being amended to bring the provision of such services into line with the policy intention.

Consultation

No consultation has been conducted. UK Ministers have agreed to ratify the Council of Europe Convention on Action Against Trafficking in Human Beings by the end of 2008. By adding victims or possible victims of human trafficking to the exemption list at regulation 4 of the principal Regulations, the terms of the Convention will be met.

Financial Effects

The instrument has negligible financial effects on the Scottish Government, NHS Boards or on business. A Regulatory Impact Assessment has therefore not been prepared.

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