EXPLANATORY MEMORANDUM TO

Provision of Health Services to Persons Not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2021

S.R. 2021 No. 286

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Health to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under powers conferred by Articles 42, 106(b), and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1. To amend the Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 ("the 2015 Regulations")

2.2. These changes are being made as a consequence of the United Kingdom and Switzerland agreeing a new social security convention which was signed on 09 September 2021.

2.3. The Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation (the 'Convention') ensures that individuals within its full scope who move between the UK (including Gibraltar, but excluding the Crown Dependencies) and Switzerland will have their social security position in respect of certain benefits protected. This includes access to cash benefits in scope of the Convention, reciprocal healthcare cover in the UK and Switzerland and an uprated state pension.

2.4. The Regulations will also make changes to the list of countries and territories with which reciprocal health care arrangements have been concluded.

3. Background

3.1. The Regulations amend the Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 (SR 2015 No. 27) (the 2015 regulations) and subsequent amendments.

3.2. Article 42 of the Health and Personal Social Services (Northern Ireland) Order 1972 authorises the Department of Health to make regulations for the exemption of services and charges for persons not ordinarily resident in Northern Ireland for healthcare purposes.

3.3. The Regulations will provide for new reciprocal healthcare arrangements coming into force with Switzerland following the signing of the UK-Switzerland Convention on Social Security Coordination.

3.4. The proposed changes do not undermine the principle that healthcare is, and will remain, free at the point of delivery for those who are ordinarily

resident in Northern Ireland. Existing exemptions to protect the most vulnerable in society and for key services essential to public health are unchanged, ensuring that urgent or immediately necessary treatment will always be provided, regardless of an individual's ability or willingness to pay for that treatment.

4. Consultation

4.1. There has been no public consultation carried out in relation to this rule as the legislative changes take effect from 25 October 2021. Northern Ireland has an obligation to comply with international agreements which are a reserved matter. This amendment will express this obligation legislatively.

5. Equality Impact

5.1. A full assessment was not considered necessary as amendments are not making changes to the policy and such an assessment was not considered necessary at primary legislation stage.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been carried out, however there is no impact on business, charities, social enterprise or voluntary bodies. The only option available is to amend the health services legislation to make provision for the Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation as it is an international agreement and a reserved matter.

6.2. It is for these reasons the Department of Health is preparing the attached Provision of Health Services to Persons Not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2021.

7. Financial Implications

7.1. There may be financial implications to the budgets of HSC Trusts through increased payment/non-payment of charges. Department of Finance have agreed to the making of the regulations.

8. Section 24 of the Northern Ireland Act 1998

8.1. Consideration has been given to the human rights implications of these regulations. They are considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The provisions in the regulations mirror similar legislation made in England and Wales and Scotland.

11. Additional Information

11.1. Not applicble