

Dear Colleague

## OVERSEAS VISITORS – SHORTENED GUIDANCE

### Summary

1. This letter advises of the publication of revised, updated and shortened guidance on overseas visitors and exemption from NHS charges.

### Background

2. I am enclosing with this letter a copy of revised, updated and shortened guidance on the circumstances in which certain overseas visitors, including those who wish to take up long-term residence in Scotland, are exempt from NHS charges. In this context, “exempt from NHS charges” does not mean they will be exempt from all healthcare charges, but that they will be entitled to receive NHS care and services on exactly the same basis as those ordinarily resident in the UK.

3. For example, those ordinarily resident in the UK do not pay for NHS services such as medical treatment or NHS eye/dental examinations. They do pay for “chargeable” services, such as NHS dental treatment and NHS prescriptions/wigs/fabric supports, unless they fall within the categories of people who are exempt from patient charges e.g. categories based on age or income.

4. All overseas visitors who do not fall within the parameters of this guidance should be charged privately for non-emergency treatment, for family health services and other types of treatment as outlined in the guidance. This guidance partly supersedes the Manual of Guidance for Overseas visitors which the Scottish Office published in 1997, pending a full revision of the Manual.

5. No further printed copies of this guidance will be issued. However, the online version at <http://www.scotland.gov.uk/Publications/Recent> will be updated as necessary with a formal review conducted each year. The next formal review will be carried out in February 2009.

**CEL 9 (2008)**

**February 2008**

### Addresses

#### For action

Chief Executives, NHS Boards

#### For information

Chief Executives, Special Health Boards  
Clinical Directors, NHS Boards  
Directors of Nursing, NHS Boards  
Hospital Overseas Patients Managers  
Primary Care Administrators, NHS Boards  
Fraud Liaison Officers, NHS Boards  
Director, Practitioner Services  
Head of Service, NHSScotland  
Counter Fraud Services

### Enquires to:

Bryan Livingstone  
St Andrew's House  
EDINBURGH  
EH1 3DG

Tel: 0131-244-3211

Fax: 0131-244-2989

[Bryan.Livingstone@scotland.gsi.gov.uk](mailto:Bryan.Livingstone@scotland.gsi.gov.uk)

<http://www.scotland.gov.uk>

6. It should be noted that this guidance is aimed at ensuring that the great majority of overseas visitors are prevented from doing so, and that the minority who are seeking to exploit our hospitality are prevented from doing so.

## Action

7. Chief Executives are asked to:
  - ensure that this letter and guidance are copied to everyone in their organisations who is likely to deal with overseas visitors, including hospital overseas patients managers;
  - ensure that their primary care administrators copy and distribute this letter and guidance to all GPs, dental practitioners, optometrists, ophthalmic medical practitioners and community pharmacists on NHS Board lists since these are likely to receive the initial approaches from overseas visitors seeking NHS care; and

Yours sincerely



**DEREK FEELEY**



**OVERSEAS VISITORS**

**SHORTENED GUIDANCE**

**February 2008**

This guidance is not a substitute for and does not override or expand on domestic and Community law on the subject of provision of medical services to overseas visitors. It is not legally binding and merely provides information to assist in interpreting current law.

Readers may wish to refer to the National Health Service (Scotland) Act 1978, the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989, as amended, the Functions of Health Boards (Scotland) Order 1991 the National Health Services (General Medical Services Contracts) (Scotland) Regulations 2004 and relevant Community law such as Directive 2004/38/EC.

This information is not a full interpretation of the current regulations. For more detailed information, please consult the Scottish Manual of Guidance, available at:

<http://www.scotland.gov.uk/library/documents-w/guide-14.htm>

Please beware of other sources of information. The English regulations are **not** the same as the Scottish regulations and therefore there will be discrepancies between the two.

**Please Note:**

- that further copies of this guidance can be downloaded and printed from <http://www.scotland.gov.uk/Publications/Recent>
- no further printed copies of this guidance will be issued. However, the online version at <http://www.scotland.gov.uk/Publications/Recent> will be updated as necessary with a formal reviewed conducted each year. The next formal review will be carried out in February 2009.

## OVERSEAS VISITORS SHORTENED GUIDANCE

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## INTRODUCTION

### *Purpose*

1. The purpose of this guidance is to explain the circumstances under which overseas visitors are “**exempt from NHS charges**”. “Exempt from NHS charges” does not mean they are exempt from **all** healthcare charges, but that they are entitled to receive NHS care and services on **exactly the same** basis as those **ordinarily resident** in the UK.
2. For example, those ordinarily resident in the UK **do not** pay for NHS services such as medical treatment or NHS eye/dental examinations in Scotland. They **do** pay for “chargeable” services, such as NHS dental treatment and NHS prescriptions/wigs/fabric supports, unless they fall within the categories of people who are exempt from patient charges eg categories based on age or income.
3. An overseas resident who does not fall into any of the categories for “exemption from charges” and who is not receiving a service which is exempt from charges (see Section 3) **must be charged** for any care provided by the NHS, where it is permitted by the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 as amended, or else advised to seek private treatment.
4. The Regulations permit charging for NHS dental treatment, NHS eye examinations and NHS hospital services. Charges may also be made for private treatment. It is for the body which is providing the service, whether hospital or family health service practitioner or clinic or in some cases NHS Boards, to determine an appropriate charge.

### *Dental Charges*

5. Although the National Health Service (Charges to Overseas Visitors) (Scotland) (Amendment) Regulations 2006 provide that dentists shall charge an overseas resident who does not fall into any of the categories for “exemption from charges” for NHS dental examinations and treatment, the charge in question must be determined by NHS Boards and the maximum patient charge does not apply. It is open to an NHS Board to decide on a charge on a commercial basis for the dentist to levy from the patient for such dental examinations. As the normal NHS charging and payment claim/reimbursement regime does not apply in such cases it is recommended that private treatment/examinations should be given to these patients.

### *Eye examinations*

6. Similarly, these Regulations provide for a charge, which must be determined by NHS Boards, to be levied by the optometrist or ophthalmic medical practitioner where an NHS eye examination is given to an overseas resident who does not fall into any of the categories for “exemption from charges”. Similar issues arise here, and it is therefore again recommended that private eye examinations are given to these patients. It should also be noted that overseas residents who do not fall into any of the categories for “exemption from charges” should not be issued with NHS optical vouchers

### ***Primary medical services***

7. The Regulations do not permit charging for NHS primary medical services i.e. GP services<sup>1</sup>. Where an individual is registered with a GP practice and receives NHS primary medical services they should not be charged for such services. However, an individual can register with a GP practice privately and be charged for those private GP services. GP practices are asked to consider whether it would be more appropriate to register a person who would not be eligible in the terms of the Regulations and this guidance for NHS hospital treatment as a private patient.

8. Hospitals are advised to check the residency status of **all** overseas nationals seeking treatment. Referral from a GP is **not** in itself proof that an individual is “exempt from NHS charges”.

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<sup>1</sup> This is without prejudice to the right of a GP to refuse any application to join the practice as a patient or temporary resident in terms of paragraph 17 of Schedule 5 to the NHS (General Medical Services Contracts)(Scotland) Regulations 2004

## SECTION 1

### GENERAL INFORMATION

9. Exemption from NHS charges is predominantly based on **residency**. This is irrespective of whether a UK passport is held, the person owns property in the UK, or pays taxes. UK State Pensioners who live abroad permanently have only limited residual rights. They should **not** remain registered with a GP. If people are **ordinarily resident** in the UK they are “exempt from NHS charges” as described above. The definitive interpretation of ordinary or temporary residence would be for a court to decide in the specific circumstances of an individual case. However, for guidance in relation to charges for overseas visitors, the following definitions are provided

#### ***Definition- Ordinarily Resident***

‘A person is ordinarily resident if they are normally residing (lawfully) in the United Kingdom (apart from temporary or occasional absences) for settled purposes as part of the regular order of their life for the time being; if they have an identifiable purpose for their residence and if that purpose has a sufficient degree of continuity to be properly described as “settled”.’

#### ***Definition- Temporary Resident***

A temporary resident is anyone who is normally resident elsewhere and who is residing (lawfully) in Scotland for more than 24 hours and not more than 3 months. Temporary residents are **not** automatically entitled to exemption from NHS charges. They must either meet one of the categories of exemption set out in this guidance or be receiving a service exempt from charges.

#### **Time Limits for Residency**

10. To qualify as ordinarily resident, people must spend no more than 3 months of the year (continuously) outside the UK, although UK State pensioners may spend up to 6 months living in another Member State of the European Economic Area (EEA).

11. People who have two homes (one in Scotland and one abroad), and who are not UK state pensioners whose second home is in another EEA member state, must have been living in the UK lawfully for the six months preceding their claim and have a lawful right to remain, in order to be exempt from paying for NHS treatment and services. However, this will not apply if they are able to prove that they are giving up the second home and resuming permanent residence in Scotland.

## SECTION 2

### CATEGORIES OF OVERSEAS VISITORS EXEMPT FROM NHS CHARGES

12. Visitors **are not** “exempt from NHS charges”, **irrespective** of their country of origin (EEA or non-EEA) **unless** they can provide acceptable evidence that the purpose of their visit falls within one of the relevant categories as explained below.

#### A PERSON TAKING UP PERMANENT RESIDENCE IN THE UK

##### A. UK Passport Holders – Right of Abode

13. Since UK passport holders and others with the right of abode do not require leave to remain in the UK, other forms of evidence will need to be seen to confirm that they are taking up **permanent residence**. If this cannot be verified they will not receive any NHS treatment on the same basis as those ordinarily resident until they have been living in the UK for at least 12 months.

##### B. European Economic Area (EEA) and Swiss Passport or Identity Card Holders (see Annex 1)

14. Nationals from EEA member states have the right to take up residence and, with some qualifications for the A8 countries, Bulgaria and Romania, to work in the UK. The following people will be exempt from NHS charges if they can prove they have taken up residence.

- a worker (including those who have ceased to work)
- self employed
- a person who has been posted to the UK by an employer in another EEA country or Switzerland
- a family member (see the definition at paragraph 41) of a worker or self employed person
- self sufficient (i.e. have enough means to support themselves without the help of the state social security system) and their family members
- a student on a full-time course of further or higher education and their family members

15. Proof of nationality must be provided as evidence, e.g. passport, national identity card, or a European Health Insurance Card (**EHIC**<sup>2</sup>) to receive care and services on the same basis as those ordinarily resident in Scotland. A letter from an employer confirming employment or a matriculation card or letter from a University or College confirming acceptance on a course of study would also be acceptable.

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<sup>2</sup> **Note** that any student, posted worker, temporary resident or person on holiday with an European Health Insurance Card (EHIC) issued in another EEA country or Switzerland is entitled to all **necessary** treatment. (See EHIC section at paragraph 15). However, anyone who is coming to take up permanent or long term residence may have been required to give up his or her EHIC before leaving home and must provide other forms of proof.

Anyone who cannot provide such proof should be charged, but told that charges will be refunded if proof is provided.

16. EEA and Swiss Nationals automatically acquire a permanent right of residency **if**:

- they have been lawfully resident for **5 years, or**
- they have ceased to work (e.g., if they have been lawfully resident and working or self employed for at least a year then retired after having resided in the UK for 3 years or have been working or self employed in the UK for 2 years and have stopped working there as a result of permanent incapacity to work or have been made a lawful resident through marriage and are not in employment, **or**
- they are the family members (see the definition at paragraph 41) of a **lawfully resident worker** who has died.

They have been working or self employed in the UK for 3 years and now work in another Member State but retain their place of residence in the UK and return to the UK at least once a week

17. **ANYONE** with a **right of residency** is “exempt from NHS charges” and therefore can register with a GP, dentist or community pharmacist for the minor ailments service. They will receive the **SAME** benefits/exemptions as a UK national who is ordinarily resident.

#### **Persons not falling under A or B above**

18. Any person taking up permanent residence in the UK who is **not** an EEA/Swiss national and **without** a UK passport **must** either have a “**no time limit**” stamp in their passport **or** a letter from the Home Office confirming that **permanent leave to remain is granted**.

#### ***Examples of Evidence***

Evidence of taking **up permanent residence** will be, e.g., lease/ mortgage of home in UK, contract of employment, pay slips, council tax documents, TV license, school registration documents, bill for shipping goods to the UK, one way tickets, letter from previous healthcare provider confirming intention to move to UK and reside permanently etc.

Evidence required to support a **right of abode or residence** can be a persons UK passport, their passport or identity card from a member state of the EEA, or a passport containing either a “Residence Permit” stamp with no time limit therein or a letter from the Home Office confirming that permanent leave to remain is granted.

## LAWFULLY RESIDENT FOR MORE THAN ONE YEAR

19. Someone who has been lawfully resident in the UK for **not less than 1 year** is entitled to “exemption from NHS charges” provided they have been resident in the UK for the **whole** of that time. (Short holidays abroad are permitted) Evidence of this would be:

- a stamp in the passport (for non-EEA/Swiss nationals)
- a residence permit or evidence of registration under the Worker Registration Scheme (for EEA nationals)
- other evidence is the same as above for permanent residence e.g., lease/ mortgage of home in UK/ contract of employment etc.

### **Examples of Evidence**

#### **Proof of being lawfully resident in the UK:**

Has right of abode (UK passport holders and certain commonwealth countries), leave to enter documents from Home Office (including documents allowing long-term leave to stay eg a fiancé visa), work permit or student visa if still valid.

#### **Proof of residence:**

Utility bills, lease, mortgage arrangement (doesn't need to be the same address for the whole 12 months).

## HOLDERS OF AN EUROPEAN HEALTH INSURANCE CARD (EHIC)

20. **Visitors (ie people intending to stay for less than 90 days)** from another EEA member state or Switzerland should have a European Health Insurance Card (EHIC) issued in their country of origin. Images of the EHICs of different countries can be found at [http://ec.europa.eu/employment\\_social/healthcard/cards\\_en.htm](http://ec.europa.eu/employment_social/healthcard/cards_en.htm).

21. Until 1 April 2008 such visitors may be asked to provide sufficient evidence of **nationality** and **residency** so as to prove that they are resident in their country of origin and engaged with the healthcare system there. **After 1 April 2008** the production of an EHIC will be **mandatory** and anyone unable to show one should be charged and advised to take up the matter with their home health authorities on their return.

22. The EHIC provides limited cover free of charge for any person from another EEA state **temporarily** in the UK. It covers only the following:

- any NHS medical treatment that becomes necessary during their trip because of illness or accident
- any necessary NHS treatment needed for chronic disease or pre-existing illness (advance arrangements need to be made for kidney dialysis or oxygen therapy). Treatment given should be aimed at stabilising the condition until the person is able to return home.

23. The EHIC **does not cover** any patient for whom getting medical treatment is the reason for their visit, e.g. who is seeking elective surgery, and, since such a person is not **ordinarily resident** in the UK, he/she is **not** “exempt from NHS charges”.

**Note:** Patients from the EEA who **do** want to come to the UK specifically for treatment must have an **E112** form signed by their Health Authority, which means that the healthcare provider in their country of origin has agreed to pay the UK Government for the cost of the treatment, or be exercising their rights under Article 49 of the Treaty of European Union in the limited circumstances as detailed in the case law of the European Court of Justice, in which case the patient would pay for treatment and should be given a receipt to claim reimbursement from the healthcare provider in their country of origin..

#### **Examples of Evidence (Until 1 April 2008, when an EHIC will be required)**

Evidence of **EEA nationality** would be a valid driver’s license and passport or national ID card.

Evidence of **residency** within the respective member state of the EEA could be state health insurance documentation, ID card.

## **STUDENTS**

24. Students in a **full time** course of study at a University or other institute of further education are “exempt from NHS charges” from the beginning of the course until, normally, one month after the end of the course. However, if graduates can prove that they are participating in the UK International Graduates Scheme or the Fresh Talent Working in Scotland Scheme they will remain exempt from charges while they seek employment. Information on both Schemes can be found at

<http://www.bia.homeoffice.gov.uk/workingintheuk/>

25. There is no specified minimum course length. As a guideline, courses should not usually be less than 3 months in length, but this is not absolute. Preliminary courses taken before a degree course may be counted as part of the same course. Courses should lead to a nationally recognised degree, doctorate or certificate of higher education (eg **recognised by the Scottish Qualifications Authority (SQA)**). If you are unsure about a particular course, please consult the SQA or the institution holding the course for further details.

26. EEA and Swiss students should have an EHIC.

27. Students on **part-time courses** are **not** “exempt from NHS charges.”

## Examples of Evidence

### Evidence of studying:

- if a national of the EEA or Switzerland they will require proof of nationality, such as a passport or EEA residence card or a European Health Insurance Card.
- if not a national of EEA or Switzerland then they should have a valid student Visa, **and**
- proof of attendance at a qualifying course of study, such as a letter of acceptance confirming the dates of duration of the course from the University or College or a matriculation card.

## AU PAIRS

28. Au Pairs are **not** regarded as workers or students and therefore are only entitled to emergency or immediately necessary treatment free of charge, until they have been lawfully resident in the UK for one 1 year (paragraph 19) unless they are EEA/Swiss residents (paragraph 20).

## ASYLUM SEEKERS

29. If a person has made a formal application for asylum which is **still under consideration** he or she, and any dependents, **is** “exempt from NHS charges”.

30. Any course of treatment which has begun while a person was still in the asylum process must be completed or continued without charge until the person leaves the country, and treatment must still be given in an emergency and for the infectious and contagious conditions specified in Section 3. For all practical purposes this is likely to mean that failed asylum seekers who have previously been resident in Scotland and remain in Scotland will remain in the care of the NHS in Scotland until arrangements for their return home can be made.

## Example of Evidence

All people lawfully seeking asylum will be issued with a letter of Temporary Admission (IS96) from the Home Office. They will subsequently receive an Application Registration Card (ARC), a credit card-sized plastic identity card carrying a photograph. More information on the ARC can be found at:

<http://www.bia.homeoffice.gov.uk/asylum/support/arc/>

IN exceptional circumstances when an ARC cannot be issued within three days a person may be given a Standard Acknowledgement Letter (SAL) will be issued. This displays the person’s name, date of birth, nationality, date of arrival in the UK, date of application, address and Home Office Reference number. Photographs of the applicant and any dependants are attached.

Either an ARC or an SAL would be sufficient proof that an individual had made a formal claim for asylum.

## REFUGEES AND OTHER SUCCESSFUL APPLICANTS

31. An asylum seeker whose application for protection in the UK under the 1951 UN Convention on refugees is successful will be granted refugee status. An applicant may also be given another type of protection status: Humanitarian protection (HP) or Discretionary Leave (DL) or may be granted Indefinite Leave to Remain (ILR). All such persons and their dependants are “exempt from NHS charges” and should be treated in the same way as permanent residents.

### Examples of Evidence

#### People with Refugee, HP, DL, or IDL status will have either:

- An Immigration Status Document , also known as a vignette” , which is a placed in the person’s passport from the country of origin, if they have one; **or**
- A “Notification of Grant” letter from the Home Office
- **(Refugees only)** A travel document which shows that it was issued in the UK in accordance with the Convention on the Status of Refugees – these are issued to look similar to a UK passport but are blue. More information can be found at <http://www.bia.homeoffice.gov.uk/ukresidency/traveldocuments/>;

## WORKERS

32. A person **is** “exempt from NHS charges” if the primary purpose of his/her lawful presence in the UK is the fact that they are **currently in** employment or self-employment. This is usually irrespective of whether he/she is paying NI contributions or UK taxes, or is unpaid employment e.g. people working abroad as volunteers or missionaries.

33. Other **work-related** circumstances in which persons **are** “exempt from NHS charges”:

- EEA nationals seeking work and in possession of an **EHIC** (people from outside the EEA seeking work are **not** covered)
- persons employed on a UK registered ship or vessel
- offshore workers (working in UK controlled waters of UK continental shelf)
- HM Government employees (diplomatic staff, crown servants, UK armed forces)
- EEA nationals paying class 1 or class 2 (national insurance) contributions
- volunteer workers, e.g. those doing unpaid voluntary work for religious or charitable organisations

### Examples of Evidence

If EEA or Swiss national they will require proof of nationality or an EHIC;

If **not** an EEA or Swiss National then they must have a valid workers permit, **and**

- proof that employment is based in the UK, e.g. confirmation from UK employer or invoices or receipts for self employed persons; **and**
- proof of employment, e.g. recent letter from employer, contract of employment or current wage slip;

**or**

- proof of self employment, e.g. invoices or receipts; **or**
- proof of working as a volunteer, e.g. a letter from the organisation to confirm what type of service is being provided.

### FORMER UK RESIDENTS WORKING OVERSEAS

34. Certain persons who formerly lived in the UK but are now working overseas are “exempt from NHS charges”. In order to qualify the following criteria need to be satisfied:

35. The person has previously been lawfully resident in the UK for **10 continuous years and**

- has not worked abroad for 5 or more years, **or**
- has worked abroad for 5 or more years, but has taken **home leave** at least **every 2** years or has the contractual right to do so, **or**
- has a contractual right to passage home at the end of their employment

### Examples of Evidence

- proof of **10 years continuous** residence, eg previous job, schools attended, previous addresses.
- proof of employment, eg letter from employer, contract of employment
- proof of not having been out of the UK for 5 or more years, eg letter from employer or history of employment, passport stamps.
- proof of Home Leave taken/ offered, eg passport stamps, flight receipts, contract of employment.
- passage home at end of employment, eg employment contract.

## UK WAR PENSIONERS OR UK WAR WIDOWS PENSIONERS

36. If the person is in receipt of either the UK War pension or UK War Widow pension then they **are** “exempt from NHS charges” regardless of where they reside.

37. It should be noted that UK War pensioners, but not UK War Widow pensioners, are also entitled to exemption from prescription charges and charges for wigs and fabric support if they have a valid war pension exemption certificate. They are however required to pay dental charges and charges for glasses and contact lenses. They may be able to reclaim such charges, if the treatment is for an accepted disability, from the Veteran’s Agency.

### Examples of Evidence

Proof of pension, e.g. pension book/ slip, letter from Ministry of Defence or Department for Work and Pensions.

## UK STATE PENSIONERS

38. UK state pensioners **must spend at least 6 months** of the year in the UK if they spend the other 6 months in an EEA member state, or **at least 9 months** of the year in the UK if they spend the rest of their time in a non-EEA country, to retain their “exemption from NHS charges”.

39. UK pensioners **living abroad permanently** who have had **more than 10 years continuous** residency in the UK or more than 10 years service as a UK **crown servant** are entitled to NHS treatment the **need for which arose during a visit** to Scotland. **So are their spouses, registered civil partners and dependant children**

### *Definition- Treatment the need for which arose during the visit*

Treatment the need for which arose during the visit" means diagnosis of symptoms or signs occurring for the first time after the visitor's arrival in the United Kingdom and any other treatment which, in the opinion of a medical or dental practitioner employed by, or under contract with, an NHS Board, is required promptly for a condition which arose after the visitor's arrival in the United Kingdom, or became, or but for treatment would be likely to become, acutely exacerbated after such arrival.

## PRISONERS AND DETAINEES

40. **Any** overseas national who is a prisoner in the UK is entitled to healthcare services on the same basis as prisoners who are UK nationals. Their care is generally arranged by the Scottish Prison Service. **Anyone** who is detained by the UK immigration authorities **is** “exempt from NHS charges”. Their care would usually be arranged by the immigration authorities.

## FAMILY MEMBERS OF ENTITLED PERSONS

41. Family members of an overseas visitor who is “exempt from NHS charges” are also exempt.

### Definition - Family Member

In the context of exemption from NHS charges “family member” for the nationals of countries outwith the European Economic Area and Switzerland refers to the entitled person’s **spouse, registered civil partner and children** (if under the age of 16, or 19 if still at school). **Older children, parents, siblings and other family members are not** “exempt from NHS charges” **unless** they have a right of abode in their own right, or have been granted Home Office leave to reside **permanently** in the UK with an entitled person acting as their sponsor.

For the family members of nationals of European Economic Area Member States and Switzerland Family member who are resident in Scotland “family member” means the person’s spouse, registered civil partner, direct descendants of the person, spouse or civil partner who are under the age of 21 or are dependant on the person, spouse or civil partner, and the dependant direct relatives in the ascending line of the person, spouse or partner. Siblings and other extended family members may be entitled if they have been granted entry to the UK as dependant relatives of the EEA national, spouse or partner

### *When Family Member has Right of Abode*

42. If the family member has a **Right of Abode** and they are taking up **permanent residence** in the UK they will be “exempt from NHS charges” in their own right meaning that their right of residence is not limited to that of their entitled family member.

43. A family member of an EEA national or Swiss national who is resident in Scotland and who has entered the UK with an EEA family member residence permit is “exempt from NHS charges” as they are considered to have a right of abode.

### *Spouse or Registered Civil Partner*

44. The spouse or registered civil partner of an overseas visitor, who is **ordinarily resident** here, has the right to reside with him/her in the UK and to be “exempt from NHS charges”. People who are in informal relationships would not normally qualify to be “exempt from NHS charges”, unless they have been permitted by the Borders and Immigration Agency/Home Office to enter the UK as a dependant of a qualified person or have an EEA family members residence permit.

45. A person entering the UK on a **marriage or fiancée or partnership visa** is usually “exempt from NHS charges”.

**Note: These rules apply whether the resident is a UK national or an overseas visitor who is exempt from NHS charges.**

### ***Children of non EEA or Swiss nationals***

46. An overseas visitor who has lawfully taken up **permanent residence** in the UK has the right to have his/her dependant children reside with him/her and for them to be “exempt from NHS charges”. The children **must** be under the age of 16 (or under 19 if still at school). Adult offspring must qualify **in their own right**.

47. Other family members (except spouse, registered civil partner and children as above) have **no** entitlement unless in their own right. If the spouse /registered civil partner of a UK resident has a child under the age of 16 (19 if at school) who is not related biologically or by way of adoption to the UK resident, the child will only qualify as “exempt from NHS charges” if they are **dependent** upon the resident and are considered ‘**part of the household**’.

48. An **unborn child** whose mother is an overseas visitor and whose father is a UK national or permanent lawful resident does not confer any entitlement to “exemption from NHS charges” on the mother if she is not herself exempt from charges, e.g. if she is not married to the father and has not any right of abode. Prenatal care and delivery should in these circumstances be charged. The child will however be “exempt from NHS charges” as soon as it is born.

### ***Parents, Grandparents and other Dependent Relatives of non EEA or Swiss nationals***

49. Parents, Grandparents and other dependent relatives **may** be allowed leave to enter the UK if they are wholly or mainly financially dependent on the resident relative. The Home Office will consider the application and their case must satisfy strict criteria.

50. Some people, including EEA or Swiss family members and dependant relatives of the nationals of other countries, may have “No recourse to public funds” stamped on their passports. This does **not** mean they have to pay for all NHS care and services. If given **indefinite leave to remain** they will be “exempt from NHS charges” provided they are resident in the UK. Unless/until indefinite leave to remain is granted, such family members are only entitled to **emergency** healthcare unless they are from an EEA country or Switzerland.

51. Dependent relatives who **live abroad** and are visiting the UK are **not** entitled to exemption from charges unless they are from an EEA country or Switzerland and are carrying a European Health Insurance card. If they come from a reciprocal health care country they will be entitled **only** to treatment the need for which arose during the visit. If they come from a country outwith the UK and with which there is no reciprocal care agreement they should be charged.

## SECTION 3

### SERVICES/TREATMENT EXEMPT FROM NHS CHARGES

#### GENERAL INFORMATION:

52. Some healthcare services and treatments are “exempt from charges” **regardless** of the patient’s background, country of origin, medical history, residency or even legality of entry to the UK. This is to ensure that **everyone** is given access to **emergency healthcare** and to help prevent the spread of infectious diseases.

53. A person who is being treated for an infectious disease is **only** entitled to free treatment for that disease, and should be charged for any other treatment which may become necessary, unless it is for another infectious disease.

#### SPECIFIC EXEMPTIONS

##### *Hospital Departments*

54. All treatment given in **A&E departments** and **casualty departments** is “exempt from NHS charges”. This includes treatment in an observation ward. The exemption **ceases** to apply when the patient is formally admitted as an in-patient or as a registered out-patient, unless the patient falls into one of the categories of exemption (section 2).

55. Referral from a GP is **not** in itself evidence that a patient is entitled to “exemption from NHS charges.” Hospitals should always seek independent evidence of an overseas visitor’s entitlement in terms of **residency** and **legality** before formally admitting him/her as an in-patient or registered out-patient.

##### *Ambulance Services*

56. Emergency Ambulance Services are “exempt from NHS charges” for **ALL** overseas visitors.

##### *Family Planning Services*

57. Family Planning Services provided in an NHS clinic are “exempt from NHS charges” for **ALL** overseas visitors.

##### *Infectious Diseases*

58. Treatment for any of the diseases listed below is “**exempt from charges**”, whether the disease is already diagnosed or not, for **ALL** overseas visitors.

Anthrax	Plague
Bacillary dysentery	Poliomyelitis
Chickenpox	Puerperal fever
Cholera	Rabies
Diphtheria	Relapsing fever
Erysipelas	Rubella
Food poisoning	Scarlet fever
Severe Acute Respiratory Syndrome (SARS)	Smallpox
Legionellosis	Tetanus
Leptospirosis	Toxoplasmosis
Lyme disease	Tuberculosis
Malaria	Typhoid fever
Measles	Typhus fever
Membranous croup	Viral haemorrhagic fevers*
Meningococcal infection	Viral hepatitis
Mumps	Whooping cough
Paratyphoid fever	

- \* Viral haemorrhagic fever covers, amongst others, Argentine haemorrhagic fever (Junin), Bolivian haemorrhagic fever (Machupo), Chickungunya haemorrhagic fever, Congo/Crimean haemorrhagic fever, Dengue fever, Ebola virus disease, haemorrhagic fever with renal syndrome (Hantaan), Kyasanur forest disease, Lassa fever, Marburg disease, Omsk haemorrhagic fever, Rift Valley disease and Yellow fever.

### ***Sexually Transmitted Diseases***

59. Treatment provided for sexually transmitted diseases at a specialised STD clinic and treatment of a sexually transmitted disease resulting from a related referral is “**exempt from NHS charges**” for **ALL** overseas visitors.

### ***HIV/AIDS***

60. **Exemption** from charges for HIV/AIDS is **limited** to a diagnostic test and counselling associated with the test and its results

61. **ALL** overseas visitors who are **not** “exempt from NHS charges” are to be treated as private patients after diagnosis and counselling and **must pay** the prescription costs for any drugs used to treat HIV (unless the overseas visitor qualifies under one of the specific categories of exemption in section 2).

### ***Involuntary Psychiatric Treatment***

**ALL** overseas visitors who are compulsorily detained in hospital, or received into guardianship under Mental Health Legislation are “**exempt from NHS charges**”.

## LIMITS OF EXEMPTION FROM NHS CHARGES:

62. “Exemption from NHS charges” is **LIMITED** to the NHS care and services for which a UK national ordinarily resident in Scotland would not pay. That is, if a person is deemed to be “exempt from NHS charges” then they are entitled to healthcare and services on **exactly the same basis** as a UK resident, i.e. they will not pay for medical treatment but may pay for, e.g. dental treatment unless they fall within the categories of patients who would be exempt from charges. Those on low income may apply on form HC1 for help with NHS costs.

### ***Prescriptions***

63. Overseas visitor who **do not** qualify as “exempt from NHS charges” should be **charged** for the full costs of any prescribed medication.

### ***Known Pre-conditions***

64. No overseas visitor is “exempt from NHS charges” for a **known precondition** unless:

- 64.1 they fall into one of the relevant categories in section 2; **or**
- 64.2 they fall into one of the specific exemptions (see directly above); **or**
- 64.3 they are EEA/Swiss nationals in possession of an EHIC; **or**
- 64.4 they are Australians receiving renal dialysis treatment (see Reciprocal Agreements, section 4)

## **NHS Eye and Dental Examinations**

65. Eligibility to free NHS eye and dental examinations is **restricted** to those **ordinarily resident** in the UK or those who fall within the categories of “exemption from NHS charges” as described in section 2 of this guidance. In **ALL** other cases the charges will not be met by the Government and dentists, optometrists and ophthalmic medical practitioners should see the patient privately and make appropriate charges.

### ***Dental Treatment***

66. Overseas visitor who **do not** qualify as “exempt from NHS charges” should be **charged** for dental treatment. Therefore, when providing dental treatment the dentist should treat the patient as a private patient.

### ***Glasses/Contact Lenses***

67. Overseas visitor who **do not** qualify as “exempt from NHS charges” should be **charged** for glasses/contact lenses. They will not be entitled to an NHS optical voucher towards the cost. Overseas visitors who do qualify as “exempt from NHS charges” will only be entitled to a voucher towards the cost of glasses/contact lenses if they fall within one of the “normal” eligibility categories, e.g. in receipt of Income Support. They are entitled to apply for help with NHS costs on form HC1 in the same way as permanent residents on low income.

## SECTION 4

### RECIPROCAL HEALTH AGREEMENTS

#### *EEA Nationals*

68. Nationals of **ALL** EEA countries and Switzerland are entitled to any necessary NHS treatment while visiting the UK on the same basis as residents, upon production of an EHIC. This covers **everything**, including existing conditions so long as the patient's visit to the UK **is not** expressly for the purpose of receiving treatment. For Oxygen Therapy or Renal Treatment contact **must** be made **prior** to treatment.

#### *EEA Nationals Electively in the UK for Treatment (E112 System)*

69. When a national of another EEA member state (or Switzerland) comes to the UK expressly to receive NHS treatment (e.g. planned operations, treatment or therapy) then they must have an **E112** form **signed by their healthcare provider/insurer**. This means that their healthcare provider in the country of residence has agreed to pay the UK Government for the cost of the treatment. Such patients should not be charged.

70. Patients seeking to exercise their rights under Article 49 of the Treaty of European Union, in the limited circumstances as detailed in the case law of the European Court of Justice, should be required to pay for treatment and provided with receipts which will enable them to reclaim costs from their health care providers in their countries of residence. The onus will be on the patient to claim reimbursement from their healthcare provider in the country of residence.

71. In any other circumstances any EEA or Swiss national coming for the purpose of receiving treatment should be treated as a private patient.

#### *Non-EEA Reciprocal Health Agreements*

72. The UK has reciprocal healthcare agreements with some non EEA countries (see Annex 2, list 1). Persons from these countries are entitled to partial exemptions from NHS charges. This includes:

- emergency treatment at an A&E/ casualty department/ GP surgery as available to everyone in the UK regardless of residency or legality of entry.
- **treatment the need for which arose** during the visit (see pg. 9 for definition)
- Quota Territories (see below)

## List 1 and List 2 Countries:

73. There are differences between the 'List 1' countries and the 'List 2' countries (see annex 2)

- **List 1** countries cover **nationals** who are **resident** in the country concerned.
- **List 2** countries cover **residents** of the country concerned, **irrespective** of their nationality.

### Examples of Evidence

#### List 1 countries:

Evidence of nationality will be required. Such evidence would be Passports or National ID cards. Evidence of residency will also be required. Such evidence could be a national insurance card equivalent, a driving licence, home health or benefits documentation.

#### List 2 countries:

Evidence of residency will be required. Such evidence could be a national insurance card equivalent, a driving licence, home health or benefits documentation.

## Quota Territories:

74. Quota arrangements apply to a number of patients who can be referred for treatment to the UK from the islands noted below. Patients accepted by the UK under these arrangements are "**exempt from NHS charges**". NHS hospitals will be notified in advance of patients authorised to come for treatment under these arrangements. The quota arrangements are monitored by the Department of Health.

- the UK dependent territories of Anguilla, British Virgin Islands, Montserrat, St. Helena, and the Turks and Caicos Islands
- Gibraltar\*
- Caribbean Islands\*\*

**\*Note:** Patients from Gibraltar **must** produce a letter from their home health or benefits authority confirming that they have either:

- been referred as part of the agreed quota arrangements with the UK, **or**
- are being referred by the home health or benefits authority who will be paying for the treatment.

If **neither** document can be presented, the patient should be considered as a self-referral and therefore informed that they can only be treated as a private patient and will be charged the cost of the procedure.

**\*\*Note:** Patients of Caribbean Islands are **limited to 4** patients from each island per year.

### **Channel Islands:**

75. Patients from the Channel Islands **can be** referred to the UK for treatment. The arrangements must be **made in advance** with the relevant NHS hospital and the patient must have the **appropriate documentation** and have been referred by their home health authority.

### **Australia:**

76. There is a specific agreement between the UK and Australia to the effect that residents of Australia may receive **Renal Dialysis NHS treatment free of charge**, subject to prior arrangement and spare capacity at a renal unit.

### **Turkey and Turkish controlled North Cyprus:**

77. A resident of Turkey or the Turkish controlled area of North Cyprus, currently in the UK and requiring treatment 'the need for which arose during the visit', should be informed that they can only be treated privately **unless** he or she can prove that they are without sufficient funds or medical insurance to meet the cost of the treatment.

## SECTION 5

### A QUICK GUIDE TO REGISTERING OVERSEAS PATIENTS

78. Overseas visitors should be registered with a GP if they are temporarily or permanently resident in Scotland, subject to the following conditions:

#### **Workers**

79. Workers (from both EEA and non-EEA countries) lawfully present in the UK should be registered as **permanent resident patients**. They should produce evidence of their **employment** in the form of a letter from their employer **and** evidence of their **residence status** in the form of a valid resident permit/ work visa.

80. Temporary workers should be registered as **temporary resident patients** provided they will work in the UK for **less than 3 months**.

#### **Students**

81. Students (**both** EEA and non-EEA) **must produce evidence** in the form of a letter of acceptance from the University, **or** a letter from the Director of Studies (confirming dates and duration of relevant course) **or** other sufficient evidence (e.g., UCAS acceptance letter plus matriculation card or ERASMUS exchange confirmation letter etc.)

82. **Non-EEA** students **must also** show evidence of a valid student visa.

83. Those students who are on courses of less than 3 months should only be registered as temporary residents.

#### **Self Sufficient**

84. **EEA** or **Swiss nationals** who are not working or studying may be granted permanent residence in the UK if they have sufficient funds to support themselves without being a burden on the state. This is assessed by the Home Office. If approved, the person will receive a letter from the Home Office confirming their permanent leave to remain. Until a GP sees this letter, they should be registered as a temporary resident patient.

#### **Spouses or Registered Civil Partners**

85. If the visitor is the **spouse** or **registered civil partner** of a UK national, or an EEA national resident in the UK, then they should be registered as permanent residents. Evidence of this would be a marriage certificate, civil partnership registration certificate, passports/identity cards, same registered address etc. (good judgement should be used here).

86. Spouses or registered civil partners of residents (either UK, EEA or non-EEA) who are nationals of countries out with the EEA should be able to prove they have leave to remain. This will be granted in the form of a letter from the Home Office or a

stamp in the passport. They should be registered as a resident. There is no need to wait until they are granted the right to permanent residence/UK nationality.

### ***'A8' Countries plus Romania And Bulgaria***

87. The "A8" accession countries are: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia, which all joined the European Union in 2005. Bulgaria and Romania joined the European Union in 2007. Nationals from these countries who are not presenting as self-employed should be registered under the Worker Registration Scheme if they are working for more than one month. They will have work permits as evidence of this. They should then be registered in the same way as other EEA nationals (as above).

### ***Others***

88. Everyone who has been given permanent leave to remain should have a '**no time limit**' stamp in their passport, a Home Office travel document (a passport substitute for those people who are unable to obtain passports in their home countries) or a letter from the Home Office granting **indefinite leave to remain**. Until they show evidence of the grant of permanent leave to remain, people who do not fall into any of the categories for exemption detailed above should be charged for treatment (**unless it is a case of emergency treatment**) and should **not** be registered.

## EEA COUNTRIES

Austria  
Belgium  
Bulgaria \*  
Cyprus  
Czech Republic \*  
Denmark  
Estonia \*  
Finland  
France  
Germany  
Greece  
Hungary \*  
Iceland  
Republic of Ireland  
Italy  
Latvia \*  
Liechtenstein  
Lithuania \*  
Luxembourg  
Malta  
The Netherlands  
Norway  
Poland \*  
Portugal  
Romania \*  
Slovakia \*  
Slovenia \*  
Spain  
Sweden  
UK

\*Indicates the 'A8' countries who joined in 2004 and Bulgaria and Romania who joined in 2007. Persons from these countries may have 'No access to public funds' stamped in their passport. This is not relevant for health care. Any national of these countries lawfully present in the UK will be entitled to healthcare.

**Switzerland** is not an EEA member, but has a treaty with the EEA. For access to health care it nationals are treated on the same basis as EEA nationals.

## RECIPROCAL HEALTH AGREEMENTS

### List 1 Countries

New Zealand  
Russian Federation  
Former Soviet Union States \*  
Former Yugoslavia \*\*

### List 2 Countries

Anguilla  
Australia  
Barbados  
British Virgin Islands  
Channel Islands  
Falkland Islands  
Isle of Man  
Montserrat  
St Helena  
Turks and Caicos Islands

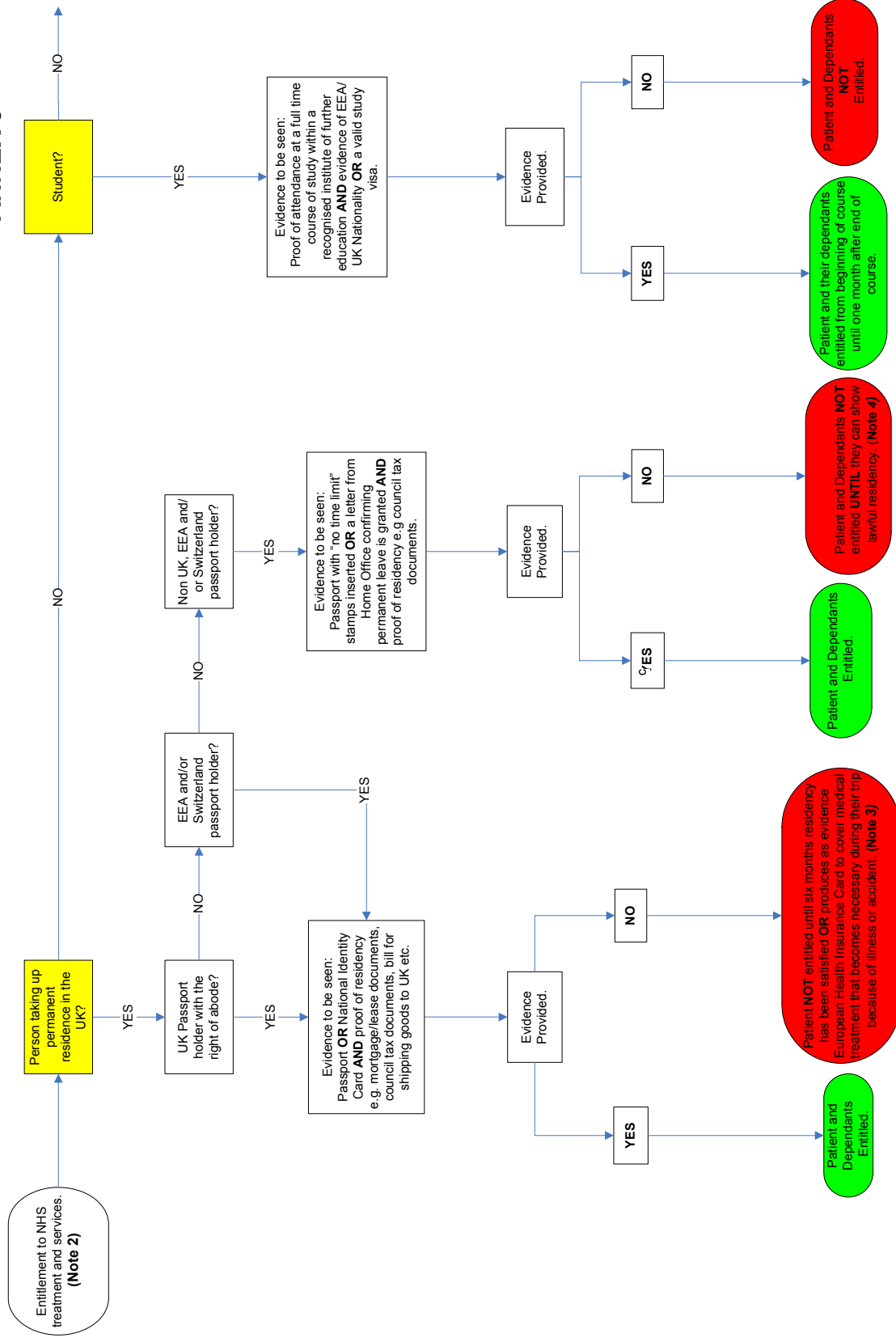
\*Former Soviet Union States are:

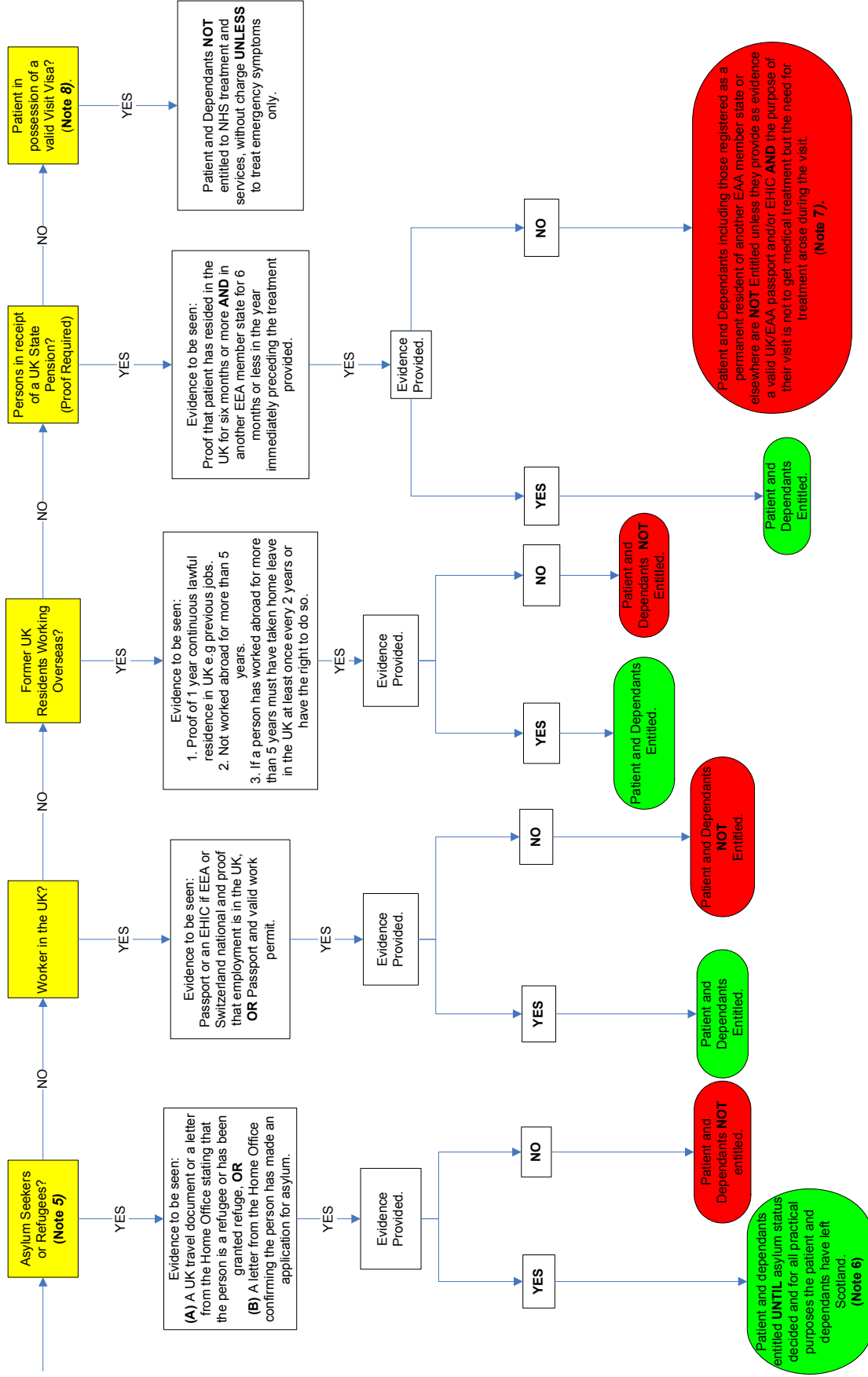
Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kirgizstan, Moldova,  
Tajikistan, Turkmenistan, Uzbekistan and Ukraine.

\*\* Former Yugoslavia States are:

Serbia and Montenegro and successor states Bosnia, Macedonia and  
Croatia.

# ANNEX 3





1. This flow chart does not provide a full interpretation of the current regulations. For more detailed information, please consult the National Health Service in Scotland: Overseas Visitors Manual of Guidance, available at: <http://www.scotland.gov.uk/library/documents-w/guide-14.htm>
2. Overseas visitors may not be exempt from all NHS charges but may be entitled to NHS treatment and services on the same basis as those people who are ordinarily resident in the UK. Those ordinarily resident in the UK do not pay for NHS treatment and services such as NHS medical treatment or NHS eye or dental examinations but they pay a patient charge for “chargeable” services such as NHS dental treatment and NHS prescriptions/wigs/fabric supports unless they fall within the categories of people who are exempt from patient charges e.g. categories based on age, medical status or income. Additionally, those ordinarily resident in the UK pay the full cost of the purchase of glasses or contact lenses unless they fall within the categories of people who are entitled to an NHS optical voucher to help towards the cost of purchasing these and they pay the full costs of travel to hospital unless they fall within the relevant entitlement categories for help with travel costs.
3. European Health Insurance Card (EHIC) does not cover any patients for whom getting medical treatment is the reason for their visit. Patients from the EEA who do want to come to the UK specifically for treatment need to have an E112 form signed by their health authority. This means that the healthcare provider in their country of origin has agreed to pay the NHS for the cost of treatment.
4. Living in the United Kingdom lawfully, voluntarily and for settled purpose.
5. Under the Immigration Rules an asylum applicant is a person who makes a request to be recognised as a refugee under the Geneva Convention on the basis that it would be contrary to the United Kingdom’s obligation under the Geneva Convention for them to be removed from or required to leave the United Kingdom - <http://www.ind.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules>
6. If an application for asylum is **refused**, and all appeals fail, the person ceases to be an asylum seeker and may no longer be entitled to NHS care or services, depending on the circumstances. However, any course of treatment, which has begun while a person was still an asylum seeker, must be completed or continued without charge until the person leaves the country. For all practical purposes this is likely to mean that failed asylum seekers who have previously been resident in Scotland and remain here will remain in the care of the NHS until arrangements for their return home can be made.
7. The need to access NHS treatment and services arose **ONLY** during the visit.
8. Under the Immigration Rules a person seeking leave to enter as a visitor must show that they:
  - a. Are genuinely seeking entry as a visitor for a limited period as stated by them, not exceeding six months; and
  - b. Intend to leave the UK at the end of the period of visit as stated by them. <http://www.ind.homeoffice.gov.uk/visitingtheuk/>

