

NHS Blood and Transplant (England) (Amendment) Directions 2020 Key Changes

1. This guidance is to assist with the interpretation and implementation of paragraph 4 of the NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) (England) Directions 2005 as amended by the NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) (England) (Amendment) Directions 2020 which come into force on 1 January 2021.
2. This guidance is intended to be read in conjunction with the Directions.

Paragraph 4 3(d) - Persons entitled by virtue of a bilateral reciprocal health agreement (including an agreement with an international organisation) or the European Convention on Social and Medical Assistance 1954 to medical treatment in the United Kingdom, where that treatment may include the allocation of, and access to, organs for the purpose of organ transplants;

3. Amended to also cover any future reciprocal healthcare agreement between the UK and the EU.

Paragraph 4(3)(f) - Persons who have an entitlement to medical treatment in the United Kingdom by virtue of a right arising from—

- (i) Title III of Part 2 of the EU withdrawal agreement,
- (ii) Title III of Part 2 of the EEA EFTA separation agreement, or
- (iii) the social security co-ordination provisions of the Swiss citizens' rights agreement;

4. The EU withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement ("the Agreements") give people certainty that their citizens' rights will be protected. People within scope of the Agreements will have broadly the same entitlements to work, study and access public services and benefits as now, in as far as these entitlements have derived from UK membership of the EU. This includes the entitlement to medical treatment in the UK, which may include the allocation of, and access to, organs for the purpose of organ transplants.
5. The Agreements cover:
 - a. EU/EEA and Swiss citizens and their family members resident in the UK by the end of the Transition Period where they meet the test of ordinary residence. They must apply to the EU Settlement Scheme (EUSS) for an immigration permission to secure these rights for the future. The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 set the deadline for applications as 30 June 2021. Those who do not make an application by this date will not have lawful status in the UK.
 - b. EU/EEA and Swiss citizens working as frontier workers (citizens who reside in one state and regularly work in another) or as a posted worker in UK by the end of the Transition Period.

- c. EU/EEA and Swiss visitors on a temporary stay in the UK which begins before but ends after 31 December 2020, for example tourists and students, and those seeking planned treatment in the UK, where this was requested from the relevant EEA health insurance authority before 31 December 2020.

Paragraph 4(3)(g) - Persons who—

- (i) were ordinarily resident in an EEA state or Switzerland immediately before IP completion day,**
 - (ii) continue to be ordinarily resident in an EEA state or Switzerland on and after IP completion day,**
 - (iii) receive a state pension paid by the United Kingdom Government, and**
 - (iv) hold an S1 healthcare certificate, or an equivalent document, issued to or in respect of that person by a competent institution of the United Kingdom.**
6. This covers UK-insured state pensioners ordinarily resident in an EEA state or Switzerland at the end of the Transition Period. A person should be accepted as “ordinarily resident” if lawfully living in an EEA state or Switzerland voluntarily and for settled purposes as part of the regular order of his or her life whether of long or short duration. The person should be resident in an EEA state or Switzerland with some degree of continuity and apart from accidental or temporary absences. This provision does not extend to those pensioners who choose to move to the EU after Implementation Period completion day.