

**EXPLANATORY MEMORANDUM TO**  
**THE HEALTH CARE (REIMBURSEMENT OF THE COST OF EEA**  
**SERVICES ETC.) REGULATIONS (NORTHERN IRELAND) 2012**

**S.R. 2012 No. 167**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1. These Regulations amend the Health and Social Care (Reform) Act (Northern Ireland) 2009 and the Health and Personal Social Services (Northern Ireland) Order 1972

**3. Background**

- 3.1. The Regulations give effect to the judgement of the European Court of Justice in Case C-372/04 The Queen, on the application of Yvonne Watts v Bedford Primary Care Trust and Secretary of State for Health ([2006] ECR I-4325). It held that the obligation under Article 49 of the EC Treaty to reimburse the cost of hospital treatment provided in another member State also applies to a tax-funded health service, such as in Northern Ireland, which provides such treatment free of charge. (Article 49, now numbered Article 56 under the Treaty on the Functioning of the European Union, provides for the freedom to provide and receive services in another member State of the European Union.) These Regulations also cover non-hospital treatment.

**4. Consultation**

- 4.1. A targeted consultation took place with HSC and the medical profession. A full public consultation will be held on the EU Cross Border Healthcare Directive before October 2013.

**5. Equality Impact**

- 5.1. An assessment was not considered necessary as these Regulations do not have any negative impact on the 9 section 75 categories.

**6. Regulatory Impact**

- 6.1. An assessment was not considered necessary as these Regulations do not have a negative impact on small business or charitable sector.

**7. Financial Implications**

- 7.1. While detailed data on the uptake of cross border healthcare is not available at present, current levels of patient mobility indicate that there will not be a substantial financial impact.

**8. Section 24 of the Northern Ireland Act 1998**

8.1. Considered compliant with Section 24 of the Northern Ireland Act 1998.

**9. EU Implications**

9.1. These interim Regulations implement existing ECJ case law and are therefore compliant with EU legislation.

**10. Parity or Replicatory Measure**

10.1. Not Applicable

**11. Additional Information**

11.1. Not applicable