

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT IMMIGRATION (HEALTH CHARGE)
(AMENDMENT) ORDER 2017

Tuesday 31 January 2017

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The Committee consisted of the following Members:

Chair: MR DAVID NUTTALL

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| † Abbott, Ms Diane (<i>Hackney North and Stoke Newington</i>) (Lab) | † Harper, Mr Mark (<i>Forest of Dean</i>) (Con) |
| † Berry, Jake (<i>Rossendale and Darwen</i>) (Con) | Hodge, Dame Margaret (<i>Barking</i>) (Lab) |
| † Cleverly, James (<i>Braintree</i>) (Con) | † Lefroy, Jeremy (<i>Stafford</i>) (Con) |
| † Davies, Mims (<i>Eastleigh</i>) (Con) | McDonagh, Siobhain (<i>Mitcham and Morden</i>) (Lab) |
| † Day, Martyn (<i>Linlithgow and East Falkirk</i>) (SNP) | † McDonald, Stuart C. (<i>Cumbernauld, Kilsyth and Kirkintilloch East</i>) (SNP) |
| † Djanogly, Mr Jonathan (<i>Huntingdon</i>) (Con) | † Pursglove, Tom (<i>Corby</i>) (Con) |
| Farrelly, Paul (<i>Newcastle-under-Lyme</i>) (Lab) | Smith, Owen (<i>Pontypridd</i>) (Lab) |
| Fysh, Marcus (<i>Yeovil</i>) (Con) | † Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Goodwill, Mr Robert (<i>Minister for Immigration</i>) | Sean Bex, Gavin O'Leary, <i>Committee Clerks</i> |
| † Griffiths, Andrew (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † attended the Committee |

Third Delegated Legislation Committee

Tuesday 31 January 2017

[MR DAVID NUTTALL *in the Chair*]

Draft Immigration (Health Charge) (Amendment) Order 2017

2.30 pm

The Minister for Immigration (Mr Robert Goodwill): I beg to move,

That the Committee has considered the draft Immigration (Health Charge) (Amendment) Order 2017.

It is a pleasure to serve under your chairmanship, Mr Nuttall. The immigration health charge was introduced in April 2015, and is paid by non-European economic area temporary migrants who apply either for a visa for more than six months or to extend their stay in the UK for a further limited period. The charge, which is set at a competitive level of £200 per annum per person and at a discounted rate of £150 for students and youth mobility scheme applicants, ensures that migrants contribute to the national health service in a manner commensurate with their immigration status, subject to limited exceptions.

Those who pay the charge receive NHS care in the same way as permanent residents do, subject to the same clinical need and waiting times, for as long as their leave remains valid. That means that they pay only those charges that a UK resident would pay, such as for dentistry, and for prescriptions in England.

In its first year of operation, the immigration health charge collected £164 million for spending on the NHS, of which £140.1 million was made available for spending in 2015-16. The remainder, as a result of agreed accounting arrangements, will be made available to the NHS in the 2016-17 supplementary estimates process. The Home Office has transferred, through the main estimates, a further £120 million so far this financial year for spending on the NHS, and is expected to make a further transfer of income to the NHS in the 2016-17 supplementary estimates process. Income from the charge is shared between the NHS in England, Scotland, Wales and Northern Ireland, using the formula devised by Lord Barnett, and spent as those bodies see fit.

The draft order amends the principal order—the Immigration (Health Charge) Order 2015—in response to the findings of two separate reviews. The first of these was conducted by the independent Migration Advisory Committee, which for brevity I will refer to as the MAC. In 2015, the MAC was commissioned to provide advice on a number of potential changes to tier 2. As part of the review, it was also asked to consider the case for applying the health charge to users of the tier 2 intra-company transfer route, which is the route for employees of multinational employers who are transferred to the UK either to take up a role that cannot be filled by a UK recruit or for training purposes. It is the only route within tier 2 and, indeed, within the entire points-based system, that is exempt from the health charge.

Although partners to the review pointed out that a large proportion of intra-company transferees might be in receipt of private healthcare, the MAC noted that they have access to the NHS, whether they use it or not. Indeed, there might be instances when they need recourse to the NHS, for example for GP referrals or in an emergency. The MAC also noted that contributions to a universal service are not made on the basis of whether an individual makes use of that service and that, for example, UK residents can opt for private healthcare without paying less tax to reflect their lower use of the NHS. The MAC therefore concluded that it could not see a good reason why intra-company transferees should be exempt from payment, and recommended that the group pay the health charge in line with other users of the tier 2 route. The recommendation was accepted by the Government, and the draft order amends the principal order to that effect.

I reassure the Committee that the Government have considered carefully the impact of applying the health charge to intra-company transferees. The increased cost to the group is small, relative to their expected income over the duration of their stay in the UK. Short-term staff, for example, must earn at least £30,000 per year and long-term staff at least £41,500. From April, all staff will be required to be paid the minimum of £41,500; as such, any impact on the route is expected to be negligible.

The second review discharged a commitment that the Government made during the passage of the principal order to review the operation of the health charge six months after implementation. It was an internal review that examined performance between April and October 2015 and considered areas for improvement. Internal and external partners across Government were consulted and contributed to the review. Its outcome was published in a letter to the Home Affairs Committee on 24 January. The review found that, overall, the health charge had been implemented successfully, but it recommended a number of technical changes to the principal order to strengthen its provisions.

First, it is the Government's position that victims of modern slavery should not pay the health charge. The charge is waived in those cases—where the victim was not trafficked; under the order, victims of trafficking are exempt from the charge. However, the review recommended that, rather than a waiver, an explicit exemption should be set out on the principal order. The draft order amends schedule 2 of the principal order so that all victims of modern slavery, whether trafficked or not, applying for leave under modern slavery policies fall under an explicit exemption. I am personally very pleased to see this explicit exemption, which further underlines this Government's commitment to combating modern slavery.

Secondly, the draft order amends schedule 2 of the principal order to make it clear that those applying for further leave to remain as a visitor are exempt from the charge. This is a minor clarifying amendment that does not change the status quo. The Government have been quite clear from the outset that applications for visitor visas do not attract the health charge.

Thirdly, article 2 of the draft order amends article 6 of the principal order to ensure that migrants granted temporary leave following a reconsideration of their application or an otherwise successful challenge to a

refusal of leave must pay the charge when requested to do so. Article 2 of the draft order also amends article 6 of the principal order to make it clear that those granted an additional period of leave on appeal must also pay a health charge for that additional period. These amendments are in line with the Government's general policy that temporary migrants should make a proportionate contribution to the NHS through payment of the charge, irrespective of the process by which leave is granted.

Finally, to provide certainty for those migrants whose applications are already in train, article 4 provides for transitional arrangements. The amendments introduced through this draft order will not apply to an immigration application submitted to the Home Office before the order comes into force.

In conclusion, the Government believe that it is only right and fair that migrants, including intra-company transferees, contribute to the extensive, high-quality NHS services available to them during their stay, in line with their temporary immigration status. We estimate that by applying the health charge to this group of migrants, an additional £136 million to £205 million, in 2016-17 prices and at present value, could be raised for the NHS over 10 years.

The other provisions in the draft order are technical but necessary, in so far as they provide greater clarity on the Government's position or seek to strengthen the wording of the principal order in line with Government policy. I commend the order to the Committee.

2.37 pm

Ms Diane Abbott (Hackney North and Stoke Newington) (Lab): I am grateful to the Minister for setting out the thinking behind this order. The background to this order is widespread public concern about health tourism. I do not think there is anyone in this House who thinks that people who are not entitled to free healthcare should obtain it. Some hospitals need to be more robust about collecting the money that they are due, but we are not in favour in this House of having a scary narrative about health tourism. The Royal College of General Practitioners says that a person is more likely to have an immigrant offering them medical treatment than to be behind an immigrant in the queue to obtain medical treatment. We stand on the principle that people who are not entitled to legal healthcare should not obtain it, but we deprecate some of the coverage of the issue in the tabloid press. It is important to extend healthcare even when there may be a lack of clarity about payment where there are public health issues for the wider population. Health stakeholders have said that we must always be aware of the wider public health concerns.

Opposition Members support the order in principle. We note that it has raised £164 million. We feel that the order makes important clarifications; the Minister spoke about clarity in relation to intra-company transfers. It is important that it is made clear what happens when payment is not made and when applications are not successful. We are pleased to note that if a person applies for further leave to remain or a visa, there will be no health charge. We also welcome the most important amendment that the statutory instrument makes: it makes it clear that there is an exemption for survivors of human trafficking and slavery. That is a very important

clarification, and it reinforces this country's good record on these issues. We also welcome the clarity on transition arrangements.

In closing, I ask what provisions we have planned for EU nationals after Brexit. Will they be subject to this health charge, or will there be another arrangement, based on mutual recognition between us and countries such as France and Spain? Even as we speak, this is a matter of concern to EU nationals living in this country, and to British nationals living in the EU. I would welcome anything the Minister had to say on that. Given those provisos, we are content to support this order.

2.41 pm

Mr Mark Harper (Forest of Dean) (Con): The Minister and the Committee will be pleased to know that I plan on speaking briefly. Indeed, I had not planned on speaking at all, but was forced to do so by the Shadow Home Secretary's speech. My understanding—the Minister will no doubt correct me if I am wrong—is that this immigration health charge is not about health tourism at all, if by health tourism we mean visitors who come to the United Kingdom specifically to get healthcare to which they are not entitled. Of course, it is a national health service, not an international health service.

Ms Abbott: *rose*—

Mr Harper: Let me finish the point. This is about making sure that people who come here as migrants to work, or who have other leave, pay a reasonable amount towards services that they get from the health service. It is not about visitors to the United Kingdom who are not entitled to healthcare at all.

Ms Abbott: I am grateful to the right hon. Gentleman for letting me intervene. I am clear what this order is about, but the context of this debate about people paying for healthcare is the very lively tabloid debate there has been about health tourism. That was my point; I was putting the debate in context, not setting out the purpose of the order. If I did not make that clear, I apologise.

Mr Harper: I accept that may have been what the hon. Lady was doing, but I was the Minister who took the original primary legislation through the House, and we were very clear about what it was, and was not, about. I do not agree with her. The context was about making sure that those who come to Britain to work and are here perfectly lawfully, contributing to the country, make a relatively modest contribution to the cost of the services that they and their families may get from our national health service.

As for visitors who come to the United Kingdom with the specific intention of getting healthcare to which they are not entitled, we already have provisions on that. My right hon. Friend the Health Secretary is making sure that the national health service, which, properly, does not charge British citizens and others who are entitled to be here, is better at establishing when people have an entitlement to healthcare, and at collecting money from those who are not entitled to it; that makes our national health service more robust,

[Mr Harper]

sustainable and able to provide free care to those who are entitled to it. That is the context in which we introduced the charges; we were making sure that people who are here lawfully make a reasonable contribution to the health service that we have all paid for. The rules for those who are guilty of health tourism and are abusing our national health service are different, and are not brought into play by this health charge at all.

Notwithstanding that, I thought the Minister put the case very well. I particularly welcome the exemption for victims of slavery, and I welcome the work the Government have done on putting in place the Modern Slavery Act 2015, a world-leading piece of legislation to deal with that heinous crime perpetrated by organised criminals. The Minister put the point very well, and I am very happy to support the order.

2.44 pm

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): I, too, can be brief. Scottish National party Members continue to have considerable concerns about the health surcharge established by the coalition Government and, in particular, its effect on NHS workers, students, academics, family members and others who seek to come to the UK. We also object to the fact that health policy has essentially been made by the Minister for Immigration, when it should be a matter for the Scottish Government. We voted against the loss of the exemption for those coming from New Zealand and Australia, and we are disappointed to note that the Scottish Government had not even been consulted on that statutory instrument. At least this amendment order will make explicit an exemption for victims of modern slavery; that is indeed very welcome.

2.45 pm

Jeremy Lefroy (Stafford) (Con): I very much welcome the order. I would like to raise one question with the Minister that arises out of the health surcharge: what if somebody who comes in on a work visa, and has had the surcharge paid, has a condition that changes during their stay here? What if, when they come to re-apply for the visa, their employer wants them to stay—or, if they are self-employed, they want to stay and work—but they have some kind of muscular complaint that worsens and is likely to produce more of a burden on the NHS? It is clear to me that the surcharge is a one-off, and that they would not be refused an extension or a repeat of their visa—on the assumption that they were going to continue to work here—even though their health condition had worsened. I would like assurance on that matter.

I ask because a constituent of mine, who works in another country in the Commonwealth, was refused an extension of their visa, though they were able to continue working in that place. The only grounds on which they were refused was that their health condition had deteriorated. I would not like somebody who is able to work, and wants to continue to work, whether they are

self-employed or have an employer who wants them to continue to work, to be refused a renewal of their visa when their health condition worsened because that would place an additional burden on the NHS. We understand that this health surcharge is, as it were, an insurance premium or a kind of contribution made, and that it covers their condition, whatever it is.

2.47 pm

Mr Goodwill: I am pleased that we have had a short debate on this matter, and I appreciate the Committee's general support. The hon. Member for Hackney North and Stoke Newington made some interesting comments about health tourism. No doubt hospitals are encouraged to be more robust in the way that they reclaim costs, but that is not a matter for the Home Office, nor indeed for this Committee; the Department of Health would lead on that. I welcome the support of Her Majesty's loyal Opposition, and the rather more grudging support, dare I say it, from the Scottish National party.

The hon. Lady also tempted me to speculate on what these sorts of NHS charges will be, post Brexit. I can only reassure her that the Prime Minister has been clear on the Government's ambition to get the best deal for Britain in the Brexit negotiations. The Department of Health is supporting the Department for Exiting the European Union in negotiating the best possible outcome for the United Kingdom.

Finally, on the point that my hon. Friend the Member for Stafford makes, the tier 2 visas and intra-company transfers are for a limited period. The premium, if you can describe it as that, paid at the beginning covers that period. The question of whether to apply for another visa would up to the company, but with intra-company transfers, it is generally the intention that the person would return to the part of the company in the country from which they came. If my hon. Friend has a specific case that he would like to raise with me, I will certainly look into it to ensure that we are delivering the healthcare that people would expect—not only the healthcare that we are legally obliged to deliver, but that which is within the spirit of the NHS. All applications are considered on their merits and in accordance with the immigration rules. In the context of the health surcharge, the visa should be refused only if the charge was not paid, not on the basis of the applicant's health. That gives a degree of clarification.

This has been a helpful debate on an important subject, and I hope that I have addressed the key issues raised, building on the excellent work of my right hon. Friend the Member for Forest of Dean, who set the ball rolling. The immigration health charge is helping the NHS to remain sustainable for future generations, while the low charge ensures that the UK remains the destination of choice for the brightest and best migrants. On that basis, I commend the order.

Question put and agreed to.

2.50 pm

Committee rose.