

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Ninth Delegated Legislation Committee

DRAFT IMMIGRATION SKILLS CHARGE
(AMENDMENT) REGULATIONS 2022

Wednesday 16 November 2022

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The Committee consisted of the following Members:

Chair: YVONNE FOVARGUE

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| † Bailey, Shaun (<i>West Bromwich West</i>) (Con) | † Mann, Scott (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| † Benton, Scott (<i>Blackpool South</i>) (Con) | Osamor, Kate (<i>Edmonton</i>) (Lab/Co-op) |
| † Colburn, Elliot (<i>Carshalton and Wallington</i>) (Con) | † Randall, Tom (<i>Gedling</i>) (Con) |
| † Dines, Miss Sarah (<i>Parliamentary Under-Secretary of State for the Home Department</i>) | † Stevenson, John (<i>Carlisle</i>) (Con) |
| † Elmore, Chris (<i>Ogmore</i>) (Lab) | † Vara, Shailesh (<i>North West Cambridgeshire</i>) (Con) |
| † Evennett, Sir David (<i>Lord Commissioner of His Majesty's Treasury</i>) | † Wheeler, Mrs Heather (<i>South Derbyshire</i>) (Con) |
| † Kinnock, Stephen (<i>Aberavon</i>) (Lab) | † Whittome, Nadia (<i>Nottingham East</i>) (Lab) |
| Leadbeater, Kim (<i>Batley and Spen</i>) (Lab) | Rebecca Lees, <i>Committee Clerk</i> |
| Lewis, Clive (<i>Norwich South</i>) (Lab) | |
| † McLaughlin, Anne (<i>Glasgow North East</i>) (SNP) | † attended the Committee |

Ninth Delegated Legislation Committee

Wednesday 16 November 2022

[YVONNE FOVARGUE *in the Chair*]

Draft Immigration Skills Charge (Amendment) Regulations 2022

2.30 pm

The Parliamentary Under-Secretary of State for the Home Department (Miss Sarah Dines): I beg to move,

That the Committee has considered the draft Immigration Skills Charge (Amendment) Regulations 2022.

The immigration skills charge was introduced in April 2017. Its aim is to incentivise businesses in the UK to take a long-term view of investment and training in the domestic workforce. It is designed to address historical under-investment in the training of domestic workers by UK employers, and to deter some from turning to immigration as a cheaper alternative.

The charge is paid by employers seeking to sponsor migrants on a skilled worker visa or a global business mobility visa as a senior or specialist worker. The charge is paid up front when the employer sponsors a worker's visa, and is automatically calculated based on the data provided by the employer. It applies at a rate of £1,000 per migrant per year for large businesses, with a reduced rate of £364 for small businesses and charities.

In the last fiscal year, the charge raised approximately £349 million. Although the income raised is not additional funding for skills, it helps to maintain the existing skills budgets across the United Kingdom, and is consistent with the Government's view that immigration must not be seen as a silver bullet to deal with skills needs in our economy. As education and skills are devolved matters, the income raised also helps to maintain funding levels for each of the devolved nations. It is distributed between England, Scotland, Wales and Northern Ireland using the formula devised by Lord Barnett.

Let us turn to the purpose of these technical regulations. Although it remains important that the charge be applied to most employers who use labour from outside the UK to fill their skills needs, there are good reasons to make specific exceptions. For example, workers are exempt if they are entering the UK for under six months, because they are then unlikely to be filling a job arising from a skills shortage.

These regulations will make two new cohorts exempt from the charge. The first of these is scale-up workers. In August this year, we launched the new scale-up visa. This enables UK businesses experiencing sustained high growth to attract top international talent and enhance the wider skills ecosystem. That visa was never intended to be subject to the immigration skills charge, as it focused on facilitating rapid recruitment and reducing the burden for UK businesses undergoing sustained high growth. This route provides workers with highly flexible conditions, including access to the wider labour market without sponsorship after six months. Consequently, the initial sponsoring employer should not be subject to

the charge. As things stand, however, the route falls within the scope of the charge due to the wording of the current legislation. Sponsors of scale-up workers currently benefit from a waiver of the charge, but these regulations will codify the position by formally exempting them.

Secondly, I shall deal with the EU intra-company worker exemption. The second cohort to be exempt from the charge is EU workers who are undertaking intra-company assignments under the terms of the UK-EU trade and co-operation agreement. That agreement was ratified by Parliament on 30 December 2020. It secured preferential trading arrangements between the UK and the EU. One such accord was that neither party would apply taxes or charges, of a type such as the immigration skills charge, to workers undertaking intra-company assignments within the terms of the agreement. Both parties committed to dropping such taxes and charges no later than 1 January 2023. This is a legal requirement that is enforceable under international law. Accordingly, these regulations make the appropriate exemption for EU businesses sponsoring such workers.

Shailesh Vara (North West Cambridgeshire) (Con): Can the Minister assure us that the EU is complying with its obligations?

Miss Dines: I understand that there is regular discussion on the issue and we are being afforded the same treatment. It is quite right to look at that, because we must make sure that this agreement is enforced equally, and that the UK and the EU are in equal partnership.

In conclusion, the immigration skills charge plays a valuable role in our immigration system. It encourages UK businesses to use domestic labour where they can, and to invest in skills when they are in short supply, but it is important that we make exemptions to the charge when there are sufficiently good reasons to do so. The regulations will support UK scale-up businesses in competing in the global market for the skills needed to continue their rapid growth. They will ensure that we deliver on an important trade commitment to our partners in the EU, and thereby secure reciprocal treatment for British workers undertaking business assignments throughout Europe. I commend the regulations to the Committee.

2.35 pm

Stephen Kinnock (Aberavon) (Lab): It is a pleasure to serve under your chairship, Ms Fovargue.

We are somewhat surprised that the Government are introducing this statutory instrument, because it appears to utterly contradict the Home Secretary's stated objective of reducing immigration. She seems to recognise that the public have been expecting net migration to decrease post Brexit, but as the latest migration figures indicate, this year's net migration is set to pass 300,000, matching the highs seen in the year of the EU referendum. Today, however, we see attempts by the Government to increase migration even further by creating a further exemption from the immigration skills for sponsored workers on the scale-up route, as well as for EU national intra-corporate transferees who take the route of getting a global business mobility visa for senior or specialist workers.

We are not opposed, in principle, to recognising that in specific areas of our economy, removing the red tape involved in bringing in overseas workers can benefit

Britain, but we are opposed to the Government lurching from one extreme to the other, using dog-whistle, anti-immigration rhetoric one day and throwing the doors wide open the next. The Labour party is taking a more balanced, nuanced approach by ensuring that immigration works for our economy and communities. We support the principle of a points-based system for migrant workers. It was, of course, the Labour Government of 2008 that introduced the points-based system for immigration from outside the European Union.

We are clear that there will be no return to the freedom of movement that there was when we were in the EU, but we will build on and make much-needed improvements to the points-based system that is in place. Our long-term ambition is to ensure that all businesses in every sector, and indeed our public services, recruit and train more home-grown talent to fill vacancies before looking overseas. For instance, we need to train up more home-grown doctors; hence our shadow Health Secretary's commitment to doubling the number of clinical placements, and to setting out a five-to-10-year workforce plan for the NHS in due course.

We recognise that if we simply turn off the tap of migrant labour without putting in place appropriate workforce structures, training and recruitment strategies, our public services will deteriorate and our businesses will struggle to meet our wider economic ambition to make, buy and sell more in Britain. As a result, more jobs could well disappear overseas. There would be other consequences; we cannot continue with the situation in the farming sector. In the past year, 30,000 pigs have been slaughtered and £60 million of crops have been burned. We recognise that we need to attract talent to help us to drive growth, but we are clear that when businesses are supported in recruiting from abroad, that should come with a commitment to increasing UK-based recruitment and training, so that we reduce long-term dependency on overseas labour.

Five years ago, when the first set of regulations on the immigration skills charge were made, the Government were clear about its intended purposes. Introducing the charge would, we were told, incentivise employers to invest in training and upskilling the resident workforce, thus reducing reliance on migrant workers. The skills charge would essentially be a tax on the recruitment of foreign workers, and the proceeds would be reinvested in skills training via the Department for Education. There was a related change: the resident labour market test would make it necessary for employers recruiting from overseas to demonstrate that they had first tried to recruit from within the UK. That test was scrapped by the right hon. Member for Uxbridge and South Ruislip (Boris Johnson) when he was Prime Minister, and the skills charge, while still in place, does not appear to be delivering its intended results, as is illustrated by this statutory instrument.

The regulations would exempt some sponsoring employers from having to pay the skills charge for migrant workers under the scale-up route, as well as some intra-corporate transferees. That implies that the Government are aiming to make it easier to recruit overseas workers, which is the exact opposite of what Ministers claimed was the purpose of introducing the skills charge. Does the Minister recognise this contradiction? Perhaps she could say whether this is a deliberate policy U-turn or just the result of incompetence.

It would have been helpful if an impact assessment had been published alongside the regulations. The scale-up route exemption could have far-reaching consequences. To qualify for the scale-up licence, a business simply has to show that it has increased either its profits or staff headcount by 20% on average each year for the past three years, and that it had more than 10 staff working for it at the beginning of that first year. How many businesses is that expected to draw in? It could be a really large number, could it not?

Since no such impact assessment has been provided, will the Minister answer the following questions? What exactly is the purpose of providing those exemptions, and what are the Government hoping to achieve in their overall immigration policy and strategy? What was the rationale for providing exemptions under the scale-up and global mobility schemes, but not for other skills-based routes? The explanatory note states that the reason no impact assessment was made is that

“no, or no significant, impact on the private, voluntary or public sector is foreseen.”

How can that possibly be, given how low the threshold is that I mentioned earlier?

Given the Government's previous commitment to using revenue from the skills charge to invest in skills training for the UK workforce, and their previous estimate that the charge would raise £100 million in its first year, what on earth leads the Minister to believe that reducing the number of employers who have to pay the charge will have no significant impact? Has the Department done any work at all to assess what losses in Government revenue might result from those changes? Can the Minister guarantee that any reductions in funding for skills training will be made up from elsewhere in the budget?

Finally, if the Government are trying to support the growth of UK businesses, that is certainly welcome, but what has happened to the commitment to invest in skills training, so that growing businesses do not have to recruit from overseas? Have the Government just given up on those objectives? I look forward to the Minister's response.

2.42 pm

Miss Dines: I thank the hon. Gentleman for his submission. I remind him and the Committee that the UK economy is vibrant, and attracts lots of investment and, necessarily, business from abroad. There needs to be a careful balance. This is a very well thought-out change in regulations. On the money that has been raised, as I mentioned earlier, the skills charge has raised £349 million. That goes directly to supporting domestic training across the country, throughout the four nations.

It is welcome that the Opposition will not oppose these measures. The changes should not really come as a surprise, because one of the waivers granted is already being informally implemented. This is just carrying on with the status quo; there is no huge change. I am surprised that the Opposition might have wanted to oppose the regulations—and am grateful that they will not—because the second cohort is exempted to allow us to fulfil an international legal obligation; it must be right that the House does that.

We are asked, “What is the purpose of this?”. It is to stimulate Britain as a global magnet for international trade—that is quite a straightforward purpose. It is also

[Miss Dines]

to raise revenue, as I have said, and to support the United Kingdom in its international efforts to secure a strong growth economy. For all those reasons, I suggest that this is a relatively straightforward and technical change, and I ask the Committee to support it. There will continue to be a need for employers to recruit skilled workers from overseas where there are no such workers in the UK.

2.44 pm

Anne McLaughlin (Glasgow North East) (SNP): I will be brief. It would be remiss of me not to point out that we would not have labour and skills shortages, and would not have to be constantly tinkering with immigration rules, if we were still in the single market. I often hear Members on the Government Benches say, “Stop going on about it; you are living in the past.” Of course, that is not the case for Scotland: we plan to be back in the single market. [Interruption.] Is that a “Hear, hear”? I welcome the support.

Mrs Heather Wheeler (South Derbyshire) (Con): Give them the euro. That will go down well.

Anne McLaughlin: I have no idea what the hon. Lady is talking about.

Mrs Wheeler: Well, you can't have the pound, can you?

Anne McLaughlin: Is that acceptable, Ms Fovargue?

The Chair: Is the hon. Lady seeking to intervene?

Mrs Wheeler *indicated dissent.*

Anne McLaughlin: I will try to be courteous. I will support the regulations, but I do not support the skills charge. As we discussed last week in Westminster Hall, there are massive shortages in heavy goods vehicle drivers, food processing workers, nurses and doctors. The health services of all four nations have significant problems, including bed-blocking: people who could go home are unable to, because of the shortage of social care workers. We have a shortage of workers in hospitals. I cannot support any barrier to getting people over here to fill those shortages, but I support a reduction in those barriers, as with the exemptions in the regulations. I would just like those exemptions to go a bit further.

There is one last thing, to which I would appreciate a positive response from the Minister. In this House, we constantly hear negatives about migrants in general and migrant workers: “There are too many of them; we need fewer of them.” Of course, I completely support putting more into training and upskilling people who are already here, but our health service would collapse without migrant workers. We cannot just dispense with them once we have trained everybody up. I invite the Minister to say something positive about migrant workers and the contribution that they make to the United Kingdom's economy. I invite her to acknowledge—as I think she is doing by saying that we need to train people here—how necessary they are to our economy.

Shailesh Vara: I note the hon. Lady's comments about migrants coming to this country. However, does she agree that we must deplore the way that thousands of them come to this country—by using people smugglers, who risk lives?

Anne McLaughlin: I did not know that we were allowed to go off on a tangent. This is getting into an argument about how people come to this country. We are talking about migrant workers; asylum seekers are not allowed to work.

Shailesh Vara: On a point of order, Ms Fovargue. I was simply taking up an issue that the hon. Member for Glasgow North East raised. If I am out of order, presumably she is as well.

The Chair: Order. We are moving slightly beyond the scope of the regulations. Perhaps you could both get back to the regulations.

Shailesh Vara: If the hon. Lady is afraid of answering the question, she should say so, rather than avoiding the issue.

The Chair: Order. Can we move back to the discussion, please?

Anne McLaughlin: I am in the governing party's bad books today, somehow; I do not know what I have done. Would I say that vile people smugglers should be stopped from treating people in the way that they do? Absolutely. Will the Government's plan to stop them work? Absolutely not. They are victimising people who are already victims of people smugglers. There is more to do on that, but we are talking about migrant workers. Asylum seekers, for some unknown reason, are not allowed to work. We need workers and they need work, but we do not let them work. I again invite the Minister to say something positive about migrant workers.

2.48 pm

Miss Dines: I am grateful for the hon. Lady's speech, although it may not be on the point of this technical change. I try my best not to be negative. This country is a magnet for businesses from across the world, and those who come under the skills schemes have very high-level skills. It is only right that the company sponsoring them pays into the kitty to promote our home development and training, which is exactly what the schemes will do. It is positives all round.

I know that the hon. Member for Glasgow North East would not want to be seen to be playing party politics on this matter. On Scotland moving away from the United Kingdom and becoming independent, she knows that the Government are committed to the Union. Although I am impressed by her fortitude in trying to make independence relevant to almost any issue, this is a technical regulation change. None the less, I thank her for her support, in that she is not opposing the regulations.

Stephen Kinnock: Will the Minister give way?

Miss Dines: Of course, although we really must conclude, rather than having a wide-ranging debate on everything to do with immigration. The regulations are about two exemptions that allow us to fulfil our legal obligations under our treaty with the EU.

Stephen Kinnock: I thank the Minister for giving way. My intervention is absolutely related to the regulations. I asked why there was no impact assessment. For the record, will she confirm that she does not think that there should be one, because she does not believe that the regulations could have a significant impact on the labour market? On cost, we are clearly reducing the number of employers that will pay the surcharge, so the changes will not increase revenue to the Exchequer as she says they will; they will do precisely the opposite. What will the cost to the Exchequer be? If there is to be no impact assessment, may I urge her to agree to keep the impact of this legislation under review, and will the Government make a statement on it within 12 months, so we can assess its impact on opportunities for our home-grown talent?

Miss Dines: I admire the hon. Gentleman's ingenuity in asking for impact assessments; he has asked for one on almost everything that I have heard him speak about. However, the immigration skills charge is a tax,

so an impact assessment is not required. If we had all the impact assessments that he has asked for, there would not be time in government to do much else.

I will conclude; the hon. Gentleman is always at liberty to write to me. The immigration skills charge is a financial tax through which the Government provide employers with vital funding that supports them in recruiting and training domestically. The regulations will not fundamentally change the operation of the charge; they simply create additional limited exemptions for highly skilled international workers recruited by UK scale-ups, and allow us to fulfil our legal obligations under our trade agreement with the EU relating to EU workers undertaking intra-company assignments in the UK. The exemptions will support our country's economic recovery by supporting high-growth business in the UK and strengthening trade and investment to and from Europe. I commend the regulations to the Committee.

Question put and agreed to.

2.52 pm

Committee rose.

