

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT IMMIGRATION SKILLS CHARGE  
(AMENDMENT) REGULATIONS 2020

*Tuesday 13 October 2020*

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**The Committee consisted of the following Members:**

*Chair:* MRS SHERYLL MURRAY

Brennan, Kevin (*Cardiff West*) (Lab)  
 Bryant, Chris (*Rhondda*) (Lab)  
 † Davies, Gareth (*Grantham and Stamford*) (Con)  
 Eagle, Ms Angela (*Wallasey*) (Lab)  
 † Elmore, Chris (*Ogmore*) (Lab)  
 † Farris, Laura (*Newbury*) (Con)  
 † Foster, Kevin (*Parliamentary Under-Secretary of State for the Home Department*)  
 Grady, Patrick (*Glasgow North*) (SNP)  
 † Grundy, James (*Leigh*) (Con)  
 † Lewer, Andrew (*Northampton South*) (Con)

† Lynch, Holly (*Halifax*) (Lab)  
 † Mullan, Dr Kieran (*Crewe and Nantwich*) (Con)  
 Owatemi, Taiwo (*Coventry North West*) (Lab)  
 † Pursglove, Tom (*Corby*) (Con)  
 † Roberts, Rob (*Delyn*) (Con)  
 † Sambrook, Gary (*Birmingham, Northfield*) (Con)  
 † Stevenson, Jane (*Wolverhampton North East*) (Con)

Stuart Ramsay, *Committee Clerk*

† **attended the Committee**

# Fifth Delegated Legislation Committee

Tuesday 13 October 2020

[MRS SHERYLL MURRAY *in the Chair*]

## Draft Immigration Skills Charge (Amendment) Regulations 2020

9.25 am

**The Parliamentary Under-Secretary of State for the Home Department (Kevin Foster):** I beg to move,

That the Committee has considered the draft Immigration Skills Charge (Amendment) Regulations 2020.

It is an absolute pleasure to serve under your chairmanship, Mrs Murray, given the proximity of our constituencies. Thankfully, however, the debate today is not on which county is best, Devon or Cornwall.

The immigration skills charge was introduced in April 2017. Its aim is to incentivise UK-based employers, including the UK branches and subsidiaries of overseas businesses, to take a long-term view of investment and training. It is designed to address an historic underinvestment 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 looking to sponsor someone from outside the European economic area for a tier 2 general or a tier 2 intra-company transfer visa lasting more than six months. It also applies if they wish to extend the employment for a further limited period. The charge is paid up front when the employer assigns a certificate of sponsorship to a migrant worker and is automatically calculated based on the dates provided by the employer as part of the sponsorship process.

The charge applies at a rate of £1,000 per migrant per year for large businesses, with a reduced fee of £364 per year for small businesses and charities. To date, the charge has raised approximately £382 million. Although the income raised is not direct additional funding for skills, it provides financial support to help maintain skills budgets across our United Kingdom, as immigration must not be seen as the sole solution or a magic bullet to deal with the skills needs in our economy, not least given the situation many face due to the impact of the coronavirus on our economy.

As education and skills are devolved matters, the income raised also helps to maintain funding levels for each of the devolved nations overall. The money raised from the immigration skills charge is distributed between England, Scotland, Wales and Northern Ireland using the formula devised by Lord Barnett with which members of the Committee are familiar.

As regards independent analysis of the introduction of the charge, it was supported by the independent Migration Advisory Committee as part of its December 2015 review of the tier 2—in effect, skilled worker—immigration route. Subsequently, in its September 2018 report on the impact of EEA migration in the UK, the MAC continued to lend its support to

the policy, specifically in relation to the abolition of the resident labour market test, which is not considered to be fulfilling its intended purpose of ensuring employers only look to recruit from overseas where a suitable resident worker cannot fill the vacancy. The MAC stated that the immigration skills charge, alongside a system of salary thresholds, was the best way to protect against employers using immigration to undercut the wages, terms and conditions of domestic workers.

The draft regulations are necessary to ensure continued application of the immigration skills charge under the new skilled worker route, which will replace tier 2 general from January 2021 in the UK's future points-based immigration system. I outlined the costs earlier, and the regulations do not change the amounts charged for either large businesses, or small and charitable organisations. The regulations will also not change the position in respect of European Union, EEA and Swiss nationals, who are exempt from the charge. Given the ending of free movement between the UK and the European Union, the Government intended to remove the exemption, but separate consequential amendment will be required following Royal Assent to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, which the House will further consider next week.

As is currently the case, some other exemptions from the charge will continue, such as where the employer seeks to recruit people at PhD-level occupations, where they recruit a person switching from the student route or where the person is recruited for less than six months. There are also some exemptions for those within other sponsored routes, such as tier 2 minister of religion and tier 2 sports person. Those exemptions will continue to apply under the future immigration system.

The Government are making the biggest change to our immigration system in a generation and delivering on the will of the British people, as expressed in the 2016 referendum and the general election of December last year. The changes come at a time of global uncertainty as a result of the coronavirus pandemic, which has sadly resulted in lost and permanently changed lives. It has also resulted in many people across a wide range of sectors sadly losing their jobs at a time of wider economic uncertainty and instability.

While it is right that the UK's immigration system encourages those with skills and talents—which every part of our Union needs to prosper—to come to the UK, now more than ever we must continue to support our domestic workforce in all four nations of the United Kingdom. We must ensure that the immigration system strikes the right balance between bringing in workers who can fill specific skills gaps and ensuring that employers are investing in our domestic workforce, who will be crucial to our long-term prosperity. We must make sure that the current circumstances do not mean that a generation is lost to the workplace.

The immigration skills charge is intended to do that. It is designed to ensure that employers contribute to our continued investment in developing the skills the country needs, and that immigration is neither an easy alternative nor a magic bullet to resolve the failure of a devolved Administration to focus on delivering their own responsibilities for skills training. I therefore commend the draft regulations to the Committee.

9.31 am

**Holly Lynch** (Halifax) (Lab): It is a pleasure to see you in the Chair, Mrs Murray. It is not often that immigration proves to be less contentious than the alternative debate that was perhaps being proposed by the Minister. I welcome being on solid footing with this draft statutory instrument this morning.

I thank the Minister for his opening remarks. As he is aware, we are certainly uncomfortable with elements of the immigration skills charge and, in particular, how it applies to NHS trusts as employers. I will take this opportunity to ask him once again to reflect on how the skills charge affects NHS trusts, with some hospitals paying back hundreds of thousands of pounds to the Government every year.

The draft regulations, as we heard, bring the definition of skilled worker within the immigration skills charge regulations in line with the Government's new proposed

points-based immigration system. Again the Minister knows, because we have been through this at some length during the passage of the immigration Bill, that we have broad concerns about how the Government define skilled workers, in particular in relation to social care. That is an issue that will return to the main Chamber next week, when we debate the Lords amendments to the immigration Bill.

The draft regulations, however, are incredibly tight in scope, so it would be futile to oppose them in isolation. We will seek to address those wider concerns at other more appropriate opportunities.

*Question put and agreed to.*

9.32 am

*Committee rose.*





