STATUTORY INSTRUMENTS

2017 No. 420

IMMIGRATION

The Immigration (Health Charge) (Amendment) Order 2017

Made - - - - 16th March 2017

Coming into force in accordance with article 1(1)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 38(1) and (3) and 74(8) of the Immigration Act 2014(**1**).

In accordance with section 74(2) of that Act, a draft of this Order was laid before and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Immigration (Health Charge) (Amendment) Order 2017 and comes into force on the twenty-first day after the day on which it is made.

(2) In this Order, "the Principal Order" means the Immigration (Health Charge) Order 2015(**2**).

Amendments to Article 6 of the Principal Order

2.—(1) Article 6 (consequences of a failure to pay a charge) of the Principal Order is amended as follows.

(2) For paragraph (4), substitute—

"(4) Paragraph (5) applies where—

(a) a person has been refused entry clearance or leave to remain;

(b) a condition in paragraph (4A) is met; and

(c) a condition in paragraph (4B) is met.

(4A) The conditions are that—

(a) the Secretary of State has refunded all or part of the amount of the charge under article 8;

(b) the Secretary of State has waived payment of all or part of the charge under article 8;

(**1**) 2014 c. 22.
(**2**) S.I. 2015/792, as amended by S.I. 2016/400.

(c) an entry clearance officer or the Secretary of State, as applicable, did not, in respect of a person required by article 3 to pay a charge but who did not do so, request that the person pay that charge under article 6(1)(a).

(4B) The conditions are that the decision to refuse entry clearance or leave to remain is subsequently—

(a) withdrawn because of a case working error under Appendix AR of the immigration rules or otherwise by the Secretary of State;

(b) found to be unlawful by a competent court or tribunal.".

(3) In paragraph (5)—

(a) in sub-paragraph (a), for "charge" substitute "charge or part of the charge"; and

(b) in sub-paragraphs (b) and (c), for "the charge" substitute "that amount".

(4) After paragraph (5) insert—

"(6) Paragraph (7) applies where—

(a) a person has applied for entry clearance or leave to remain for a particular period;

(b) entry clearance or leave to remain is granted for a shorter period than that for which the application was made ("the reduced period of leave");

(c) the Secretary of State has refunded all or part of the charge under article 8; and

(d) the Secretary of State or a competent court or tribunal subsequently determines that entry clearance or leave to remain for a longer period than the reduced period of leave is to be granted ("the additional period of leave").

(7) Where this paragraph applies—

(a) an entry clearance officer or the Secretary of State, as applicable, may request that the person pays the amount of the charge for the additional period of leave calculated in accordance with article 4 ("the additional amount");

(b) the person must pay the additional amount within 10 working days beginning with the date when the request for payment under sub-paragraph (a) is sent in writing or made by telephone or in person;

(c) if the additional amount is not paid within the period mentioned in sub-paragraph (b), the additional period of leave must not be granted.".

Amendments to Schedule 2 to the Principal Order

3.—(1) Schedule 2 to the Principal Order is amended as follows.

(2) In paragraph 1(b), for "entry clearance" substitute "entry clearance or leave to remain".

(3) Omit paragraph 1(c).

(4) For paragraph 1(g), substitute—

"(g) for leave to remain for a Trafficking Convention reason, or under paragraph 159I of the immigration rules as a domestic worker who is the victim of slavery or human trafficking, where the applicant has received a positive conclusive grounds decision from a competent authority;".

(5) In paragraph 1(i), for "sub-paragraph (c), (e), (f), (g) or (h)" substitute "sub-paragraph (e), (f), (g) or (h)".

(6) After paragraph 3, insert—

"**4.** In this Schedule—