Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Immigration (Health Charge) Order 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 792

IMMIGRATION

The Immigration (Health Charge) Order 2015

Made - - - -	*16th March 2015*
Coming into force - -	*6th April 2015*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 38 and 74(8) of the Immigration Act 2014 [F1]. In accordance with section 38(4) of that Act, in specifying the amount of the charge under section 38(3)(b) of the Act, the Secretary of State has (among other matters) had regard to the range of health services which are likely to be available to persons who have been given immigration permission.

In accordance with section 74(2) of the Immigration Act 2014 a draft of this Order was laid before and approved by a resolution of each House of Parliament.

F1 2014 c. 22.

Citation and commencement

1. This Order may be cited as the Immigration (Health Charge) Order 2015 and comes into force 21 days after the day on which it is made.

Interpretation

2. In this Order—

"the 2014 Act" means the Immigration Act 2014;

"entry clearance officer" means a person entitled under the immigration rules to grant or refuse entry clearance;

"immigration rules" means rules made under section 3(2) of the Immigration Act 1971 [F2].

F2 1971 c. 77.

Requirement to pay an immigration health charge

3.—(1) A person who applies for—

(a) entry clearance of a type mentioned in section 38(2)(b) or (c) of the 2014 Act, or

(b) leave to remain in the United Kingdom for a limited period,

must pay a charge to the Secretary of State, subject to article 7.

(2) A person is required by paragraph (1) to pay a separate charge in respect of each application made by the person.

Amount of the charge

4.—(1) The table in Schedule 1 to this Order provides for the annual amount ("the specified annual amount") which must be paid in respect of each type of application specified in that table.

(2) The total amount of the charge which a person is required to pay in respect of each application by virtue of article 3 is to be calculated in accordance with paragraphs (3) to (6).

(3) Where a person applies for entry clearance under a paragraph of the immigration rules, the person must pay the specified annual amount for each year of the maximum period of leave to enter the United Kingdom which could—

(a) have effect upon the person's arrival in the United Kingdom by virtue of provision made under section 3A(3) of the Immigration Act 1971, or

(b) be granted pursuant to the entry clearance,

if the entry clearance is granted for the maximum period provided for under the immigration rules in respect of that paragraph.

(4) Where a person applies for leave to remain for a limited period under a paragraph of the immigration rules, the person must pay the specified annual amount for each year of the maximum period of leave to remain which could be granted pursuant to the application under the immigration rules in respect of that paragraph.

(5) Where a person applies for entry clearance or leave to remain outside the immigration rules, the person must pay the specified annual amount multiplied by 2.5.

(6) Where the maximum period of leave to enter or remain mentioned in paragraph (3) or (4) would be less than a year or would include part of a year, if the part year is—

(a) 6 months or less, the amount payable for that part is half of the specified annual amount;

(b) more than 6 months, the amount payable for that part is the specified annual amount.

When a charge must be paid

5.—(1) A person required by article 3 to pay a charge must pay the amount required when the person applies for entry clearance or leave to remain, as applicable.

(2) A charge is only paid as required by paragraph (1) where the person does not cancel or otherwise reclaim that payment subsequently, and provided the charge has not been wholly refunded under article 8.

[F3Payment in foreign currency

5A. Where a person seeks to pay a charge required under article 3 of this Order in a currency other than sterling ("the foreign currency"), the charge payable in the foreign currency is determined by reference to the Home Office Exchange Rate Policy applying on the date that the payment is made.**]**

F3 Art. 5A inserted (8.1.2019) by The Immigration (Health Charge) (Amendment) Order 2018 (S.I. 2018/1389), arts. 1(1), **2** (with art. 4)

Consequences of a failure to pay a charge

6.—(1) Where a person required by article 3 to pay a charge fails to pay the required amount in accordance with article 5, and the entry clearance or leave to remain, as applicable, has not yet been granted or refused, subject to paragraph (2)—

(a) an entry clearance officer or the Secretary of State, as applicable, may request that the person pays the outstanding charge;

(b) the person must pay the outstanding charge—

(i) in the case of an application for entry clearance, within 7 working days beginning with the date when the request for the payment under sub-paragraph (a) is sent in writing or made by telephone or in person, or

(ii) in the case of an application for leave to remain, within 10 working days beginning with the date when the request for the payment under sub-paragraph (a) is sent in writing or made by telephone or in person;

(c) if the outstanding charge is not paid within the time period mentioned in—

(i) sub-paragraph (b)(i), the application for entry clearance must be refused by an entry clearance officer, or

(ii) sub-paragraph (b)(ii), the application for leave to remain must be treated as invalid by the Secretary of State,

as applicable.

(2) Where a person makes an application for entry clearance or leave to remain and, before the application has been granted or refused, cancels or otherwise reclaims the amount of the charge, the application for entry clearance or leave to remain, as applicable, must be refused by the entry clearance officer or the Secretary of State.

(3) Where a person has been granted entry clearance or leave to remain, as applicable, but cancels or otherwise reclaims the amount of the charge—

(a) any entry clearance granted must be revoked by an entry clearance officer;

(b) any leave to enter conferred or granted pursuant to an entry clearance must be cancelled by an immigration officer (appointed under paragraph 1(1) of Schedule 2 to the Immigration Act 1971); and

(c) any leave to remain granted must be cancelled by the Secretary of State.

[[F4](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;

(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.**]**

(5) Where this paragraph applies—

(a) the entry clearance officer or the Secretary of State, as applicable, may request that the person pays the **[**F5charge or part of the charge**]**;

(b) the person must pay **[**F6that 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 **[**F7that amount**]** is not paid within the period mentioned in sub-paragraph (b), the application for entry clearance or leave to remain must be refused by the entry clearance officer or the Secretary of State, as applicable.

[F8(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.**]**

F4 Art. 6(4)-(4B) substituted for art. 6(4) (6.4.2017) by The Immigration (Health Charge) (Amendment) Order 2017 (S.I. 2017/420), arts. 1(2), **2(2)** (with art. 4)

F5 Words in art. 6(5)(a) substituted (6.4.2017) by The Immigration (Health Charge) (Amendment) Order 2017 (S.I. 2017/420), arts. 1(2), **2(3)(a)** (with art. 4)

F6 Words in art. 6(5)(b) substituted (6.4.2017) by The Immigration (Health Charge) (Amendment) Order 2017 (S.I. 2017/420), arts. 1(2), **2(3)(b)** (with art. 4)

F7 Words in art. 6(5)(c) substituted (6.4.2017) by The Immigration (Health Charge) (Amendment) Order 2017 (S.I. 2017/420), arts. 1(2), **2(3)(b)** (with art. 4)

F8 Art. 6(6)(7) inserted (6.4.2017) by The Immigration (Health Charge) (Amendment) Order 2017 (S.I. 2017/420), arts. 1(2), **2(4)** (with art. 4)

Exemptions from the requirement to pay the immigration health charge

7. Schedule 2, which provides for circumstances when a person is exempt from paying the charge under article 3, has effect.

Reduction, waiver or refund

8. The Secretary of State has discretion to reduce, waive or refund all or part of a charge.

James Brokenshire
Minister of State

Home Office