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DRAFT STATUTORY INSTRUMENTS

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**2015 No.**

**The Immigration (Health Charge) Order 2015**

**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.
- (4) Paragraph (5) applies where—
- (a) a person has been refused entry clearance or leave to remain,
  - (b) the Secretary of State has refunded the total amount of the charge under article 8, and
  - (c) the refusal is subsequently 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 charge;
- (b) the person must pay the charge 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 charge 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.