

**EXPLANATORY MEMORANDUM TO**  
**THE IMMIGRATION (HEALTH CHARGE) (AMENDMENT) ORDER 2018**  
**2018 No. 1389**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 The immigration health charge is the levy placed on long term migrants, to contribute to the costs of the National Health Service. The charge was first introduced three years ago. The Government is seeking to double the amount of the charge, so that migrants make a fairer contribution to their average annual cost to the NHS. The charge will increase to £300 for students, dependants of a student, and Youth Mobility Scheme applicants. It will increase to £400 in respect of everyone else. Additionally, the Order provides greater clarity about exchange rates, when payments are made in foreign currencies.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.
- 3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 38 Immigration Act 2014) and the territorial application of this instrument is not limited either by the Act or by the instrument.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

**5. European Convention on Human Rights**

- 5.1 The Immigration Minister, Caroline Nokes MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Immigration (Health Charge) (Amendment) Order 2018 are compatible with the Convention rights.”

**6. Legislative Context**

- 6.1 The Immigration (Health Charge) Order 2015 (“the Principal Order”) was made under section 38 of the Immigration Act 2014. It requires a person who applies for entry clearance to the United Kingdom, for a limited period, or for limited leave to remain

in the United Kingdom, to pay an immigration health charge. Schedule 1 to the Order sets out the amounts of the charge to be paid by particular categories of applicant. In respect of applications by students and dependants of students, it set the amount at £150. For all other categories of application, it set the amount at £200. There are a number of exemptions from the requirement to pay the charge, which are set out in Schedule 2 to the Order.

- 6.2 The Principal Order was amended by the Immigration (Health Charge) (Amendment) Order 2016, which amended the amount of the charge to £150 in respect of applications for entry clearance as a Tier 5 (Youth Mobility Scheme Applicant) and removed the exemption in Schedule 2 for nationals of Australia or New Zealand. It was further amended by the Immigration (Health Charge) (Amendment) Order 2017 to remove the exemption from the charge available for Intra-Company Transfer applicants and their dependants, and to provide an explicit exemption from the surcharge for all victims of modern slavery (not just human trafficking).

## 7. Policy background

### *What is being done and why?*

- 7.1 Section 38 of the Immigration Act 2014 (“the Act”) enables the Secretary of State by order to provide for an immigration health charge to be imposed on those applying for leave to enter or remain in the UK for a limited period. The immigration health charge was introduced on 6 April 2015 by the Principal Order.
- 7.2 The immigration health charge is payable by non-EEA nationals who enter the UK for more than six months in a temporary capacity or who apply to extend their stay in the UK, subject to certain exemptions listed in Schedule 2 to the Principal Order. Those who pay the immigration health charge can access NHS services free of charge (subject to those charges UK residents must pay, such as for prescriptions and dental treatment in England). Since 21 August 2017, those who pay the health charge are also subject to NHS charges for assisted conception services in England under the National Health Service (Charges to Overseas Visitors) Regulations 2015 as amended by the National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017.
- 7.3 Schedule 1 to the Principal Order sets the amount of the charge. It is currently set at £200 per annum per migrant, with a discounted rate for students and Youth Mobility Scheme applicants of £150 per annum. Dependants generally pay the same amount as the main applicant. Article 3 of this Order amends the Principal Order to double the amount of the charge across all routes. In respect of applications by students, dependants of students and Youth Mobility Scheme Temporary Migrants, the annual amount of the charge will increase from £150 to £300. The annual amount in respect of all other categories of application will increase from £200 to £400.
- 7.4 In specifying the new amount of the charge, the Secretary of State for the Home Department has considered the range of health services available without charge to those given immigration permission, and the cost to the NHS of treating those who pay the charge. In England, the Department of Health and Social Care (DHSC) estimates that the NHS spends £470 on average per person per year in respect of charge-payers. The Secretary of State has also considered other matters, such as the need to ensure the UK remains competitive as a place for skilled workers and international students to come. Doubling the amount of the charge better reflects the

costs to the NHS of treating those who pay it, thereby ensuring affected migrants make a fair contribution, below cost recovery level, to the primary care, accident and emergency and secondary care services available to them.

- 7.5 Article 2 of this Order amends the Principal Order to set out the exchange rate which the Home Office applies when the charge is paid in a currency other than sterling. The exchange rate is determined by reference to the Home Office Exchange Rate Policy, which is accessible at <http://www.gov.uk/government/publications/exchange-rate-policy>. Hard copies can be obtained from: Fees and Income Planning Team, 8th Floor, Southern House, Wellesley Grove, Croydon CR0 1XG.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 The Government indicated in the Explanatory Memorandum to the Immigration Health Charge (Amendment) Order 2017 that it intended to consolidate with the Principal Order at the earliest opportunity. Given the limited amendments made by this Order, the Government does not consider this a suitable opportunity for consolidation with the Principal Order but will keep the issue under review in respect of any future amending orders.

## **10. Consultation outcome**

- 10.1 There was no public consultation on these changes. However, the Home Office announced on 5 February 2018 that it planned to double the level of the charge. The Government's 2017 general election manifesto included a commitment to increase the charge.

## **11. Guidance**

- 11.1 Guidance on gov.uk will be amended in line with these changes.

## **12. Impact**

- 12.1 The impact on business, charities or voluntary bodies is set out in the Impact Assessment published alongside this memorandum.
- 12.2 The impact on the public sector is set out in the Impact Assessment published alongside this memorandum.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The Home Office keeps the operation of the charge under review, with support from, amongst others, the Department of Health and Social Care. Parliament received an

assessment of income generated by the immigration health charge after the first year of operation on 23 March 2016

14.2 The Order does not include a statutory review clause.

**15. Contact**

15.1 Elizabeth Coley at the Home Office Telephone: 020 7035 8703 or email: Elizabeth.coley@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

15.2 Alison Samedi at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Immigration Minister, Caroline Noakes MP, at the Home Office can confirm that this Explanatory Memorandum meets the required standard.