
EXPLANATORY NOTE

(This note is not part of the Order)

This Order requires a person who applies for entry clearance for a limited period, or for limited leave to remain in the United Kingdom, to pay an immigration health charge. Article 3 requires the person to pay a separate charge in respect of each application the person makes.

Article 4 makes provision for the amount of the charge to be paid. Schedule 1 sets out the annual amount payable in respect of the specified types of application.

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 which could have effect on the person's arrival in the United Kingdom, or be granted pursuant to the entry clearance, if the entry clearance is granted for the maximum period under the immigration rules in relation to that paragraph.

Where a person applies for leave to remain in the United Kingdom 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 relation to that paragraph.

Where the maximum period of leave to enter or remain would be for less than a year, or includes part of a year, the amount payable for that part is either half of the specified annual amount for a period of up to 6 months, or the specified annual amount if the part of the year is more than 6 months.

Where the person applies for entry clearance or leave to remain outside the immigration rules then the person must pay the specified annual amount multiplied by 2.5.

Article 5 provides that a person must pay the charge when the person applies for entry clearance or leave. The charge is only paid as required where the person does not cancel or otherwise reclaim the payment after it has been made, and provided the total amount of the charge has not been refunded under article 8 of the Order.

Article 6 sets out the consequences of a failure to pay a charge. The entry clearance officer or the Secretary of State, as applicable, may inform the person of the failure to pay the charge. Where a person applies for entry clearance, the person will have 7 days to pay the outstanding amount or the application must be refused. Where a person applies for leave to remain, the person will have 10 days to pay the outstanding amount or the application must be treated as invalid.

However, if a person applies for entry clearance or leave to remain but, before the application is determined, the person reclaims or otherwise withdraws the payment made, the application will be refused.

Where the person has been granted entry clearance or leave to remain, but reclaims or otherwise withdraws the payment, any entry clearance granted must be revoked, any leave to enter conferred or granted pursuant to the entry clearance must be cancelled, and any leave to remain must be cancelled.

Where a person has been refused entry clearance or leave to remain but that refusal is held to be unlawful by a competent court or tribunal, and the Secretary of State has refunded the amount of the charge under article 8, an entry clearance officer or Secretary of State may inform the person of their failure to pay the charge. The person must then pay within the specified time or the application must be refused.

Article 7 and Schedule 2 to the Order make provision for exemptions from the requirement to pay the immigration health charge.

Status: This is the original version (as it was originally made).

A person is exempt from the charge if they apply for entry clearance which would have effect as leave to enter the United Kingdom on arrival for 6 months or less, or where leave to enter could only be granted pursuant to the entry clearance for 6 months or less if granted in accordance with the immigration rules.

A person is exempt from the charge if they apply for entry clearance in one of the categories set out in Part 2 of the immigration rules which concern visitors.

Those who apply for entry clearance or leave to remain under the Rules as a Tier 2 Intra-company Migrant Transfer are exempt from paying the charge.

A child who is a looked after child under the Children Act 1989 (or certain other equivalent provisions) is exempt from paying the charge.

A person who makes an application for leave to remain which relates to a claim for asylum, humanitarian protection, or a claim that their removal from the United Kingdom would be contrary to article 3 of the European Convention on Human Rights, does not have to pay the charge.

A person who applies for limited leave under the Home Office concession known as the destitute domestic violence concession is exempt.

A person who applies for leave to remain relating to their identification as a victim of human trafficking is exempt.

A person who applies for entry clearance or leave as a dependant of a person whose application falls under the one of the specified paragraphs is also exempt from the charge.

A dependant of a member of HM forces, or of a member of a force who is exempt from immigration control under section 8(4)(b) and (c) of the Immigration Act 1971, is also exempt from the requirement to pay the charge when applying for entry clearance or leave to remain as a dependant.

Those who apply for entry clearance or leave to remain where the provision for such entry clearance and leave to remain has been made pursuant to an EU obligation are not required to pay the charge.

Nationals of Australia or New Zealand are exempt from paying the charge in line with international agreements between these two States and the United Kingdom for the provision of reciprocal healthcare without charge for their nationals.

A British Overseas Territories citizen who is resident in the Falklands Islands is exempt from paying the charge.