

## **RCN submission: The Immigration and Social Security (EU Withdrawal) Bill, Committee Stage written evidence, June 2020**

### **Background**

The Immigration and Social Security (EU Withdrawal) Bill 2019-21 has been re-introduced to repeal free movement, making EU, EEA and Swiss citizens subject to UK immigration controls. This briefing sets out the RCN's concerns about the impact repealing freedom of movement will have on nursing and safe and effective care. In addition, we have concerns around the impact of providing Ministers with the power to make consequential amendments to the Immigration Rules without parliamentary approval or formal consultation with stakeholders.

Whilst the future immigration system is outside of the remit of this legislation, it is critical that the Committee consider this Bill within the context of the planned future immigration system and the experience of migrants within this environment. It is not possible to divorce the two issues and debate immigration in separate parts. Therefore, the debate around this Bill must be used as an opportunity to highlight and carefully consider the impact that the proposed future immigration system will have on nursing staff and on health and care services' ability to recruit internationally educated key workers.

### **Key Points**

- There are 77,065 non-EEA internationally educated nurses working in health and care across the UK.<sup>i</sup> International workers account for approximately one sixth of care workers in England yet despite this it is estimated that there are currently 122,000 vacancies.<sup>ii</sup>
- COVID-19 has brought to the fore the expertise and value that all nursing staff make; regardless of their place of origin, they are all key workers. The UK government must do everything possible to recognise the role that internationally educated nurses have in providing safe and effective care to the public.
- Freedom of movement and the Mutual Recognition of Professional Qualifications (MRPQ) has enabled the mobility of health and care workers across Europe and played a key part in bolstering the UK's nursing workforce. The end of freedom of movement will exacerbate current workforce shortages with significant implications for the provision of care.
- Any changes to regulations concerning immigration and the rights of overseas' citizens must be conducted via affirmative procedure and sufficiently scrutinized so that Ministers cannot make changes to policy in isolation.
- The UK government's current proposals for the immigration system will exclude many health and care workers from entering the UK, primarily social care staff, which will have a devastating impact on the health and social care sector. The Home Office must urgently review the current proposals, which provide no migratory route for care workers.
- We expect the UK government to ensure that internationally educated nurses are supported to work in the UK and therefore the profession must continue to be exempt from the salary threshold. Nursing must stay on any shortage or priority occupation list.
- The Immigration Health Surcharge (IHS) was an unfair and unjust financial burden on health and care staff. We welcome the Government's recent announcement to exempt health and care workers from this charge and we expect that it will apply to all staff, not just those working in our NHS.

### **1. Freedom of movement**

1.1 The MRPQ has enabled the free movement of nurses and other health professionals by converging the standards of competency required to practice. It includes language checks on EU nurses and a duty on all EU member states to inform one another about suspended or banned professionals, both of which are important and positive developments for patient safety.<sup>iii</sup> We require clarity on how the MRPQ will be retained and used following the end of free movement. We expect assurances that the UK will continue to align professional standards with the Directive should it no longer apply. We support any amendments to retain rules established by the MRPQ.

1.2 Internationally educated nurses play a vital role in providing safe and effective care and sustaining our health and care workforce but due to uncertainty and hostility around immigration, they are choosing to leave. The latest data from the Nursing and Midwifery Council (NMC) shows that since the Brexit referendum in 2016/17, over 12,000 EU nurses left the UK workforce. The current domestic nursing workforce supply has not kept pace with rising patient need. Currently there are at least 40,000 nursing vacancies in health and social care services in England.<sup>iv</sup>

1.3 Ending freedom of movement, coupled with the implementation of government's proposed immigration policies, will prevent EEA nursing staff from coming to work in the UK, therefore exacerbating current workforce shortages. Whilst international recruitment cannot be used as a substitute for the adequate supply of a domestic workforce, it is clear that overseas recruitment must continue, and increase in the short to medium term so that people can receive safe and effective care. The Government must undertake an impact assessment to fully understand the ways in which the new immigration system will affect patient care across all health settings.

1.4 Governments across the UK must work together to ensure that the UK continues to be a world leader in innovation in healthcare by enabling health and care services to draw on knowledge, skills and expertise internationally. Just as population health isn't restricted by geographical borders, neither should the sharing of expertise be.

## **2. Consequential Amendments within the Bill**

2.1 We are concerned that Clause 4 will grant 'Henry VIII' powers to Ministers which enable them to amend legislation without sufficient scrutiny or oversight. We are clear that any future scrutiny of delegated legislation on immigration must be conducted via affirmative procedure to ensure sufficient checks and balances by Parliament.

## **3. Minimum salary thresholds and the future points-based system**

3.1 By expanding the Tier 2 visa route to include medium skilled jobs (occupations of RQF3+), the current salary threshold of £30,000 to enter the UK will be lowered to £25,600. Individuals may also be able to enter the UK on a lower salary (no less than £20,480) should their occupation be listed on the Shortage Occupation List (SOL). Whilst we acknowledge that these measures provide an added, and necessary level of flexibility to the current system, these changes do not go far enough. The lower salary threshold will still be unrealistic and unattainable for many health and social care assistants, who would likely be ineligible due to the qualification specification.

3.2 The current emergency has served to highlight that low wage is in no way synonymous to the skill or value of a professional. The future immigration system must not use arbitrary salary levels as the primary determinant of a person's ability to work in the UK. Nurses are currently exempt from the minimum salary threshold because they are on the Agenda for Change pay scales which are determined by the UK Government, and are also listed on the SOL.

3.3 In their recent call for evidence, the Migration Advisory Committee (MAC) confirmed that Registered Nurses will remain listed on the SOL. However, the SOL is temporary and reviewed regularly providing no guarantee that much needed internationally educated nurses will meet the requirements to join the UK workforce in the longer term.

3.4 The UK government's recent policy statement on the future immigration system<sup>v</sup> neglected to mention plans on the minimum income threshold required to apply for indefinite leave to remain. Currently set at £35,000, this is extremely difficult for most international nurses to attain.<sup>vi</sup> If nursing is removed from the SOL, this restriction will apply, creating a significant and unnecessary barrier to long term settlement and knock on impact to nurses' own lives and the continuity of patient care. We need assurance that the exemption for nurses from the salary threshold will continue, and that nursing will remain on the SOL or an equivalent priority list.

#### **4. Visa route for 'low-skilled' staff**

4.1 The UK Government's decision to not introduce a system for professionals disregarded as 'low skilled' to enter and work in the UK will significantly impact the recruitment and retention of nursing staff in the care sector. Whilst we had considerable doubts about the suitability of the temporary visa route proposed in government's previous Immigration White Paper<sup>vii</sup> and the potential impact that the 12-month time limitation could have on continuity of care, even more concerning is government's decision to make no provision whatsoever for groups of workers that are unable to meet Tier 2 visa requirements.

4.2 The average salary for care workers in England is between £16,400 and £18,400 which means that individuals would fail to meet even the lower salary threshold of £20,840 to be eligible to work in the UK. Many would also fail to meet the qualification level threshold in any event. The current proposals for the new immigration controls will exacerbate the current social care workforce shortages and put some of the most vulnerable members of our society at risk.

4.3 We expect the Home Office to immediately review the current proposals for the future immigration system, which provide no migratory route for social care assistants and health care assistants, who are vital to the UK population's health and economy.

#### **5. The Immigration Health Surcharge (IHS)**

5.1 The services that our international workforce provide - brought into sharper focus during the current emergency - have always been essential. We had been calling for the UK government to exempt health and care workers from this immoral charge immediately and on a permanent basis for over two years. We welcomed the Government announcement to exempt health and care workers from the IHS – an unjust additional financial burden placed on staff and their families when they already contribute through their taxes and by virtue of their work.

5.2 We await further details for how and when this exemption will apply. We expect that all health and care workers and their dependents will be exempt, not just those working in our NHS. Overstretched health and care services will also struggle to cover any funding gap created by this policy from their existing budgets. Consideration must also be given to families who have already paid the IHS so that they can be appropriately refunded.

#### **About the Royal College of Nursing**

With a membership of more than 430,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the RCN is the voice of nursing across the UK and the largest professional union of nursing staff in the world.

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Please see workforce appendix below.

## **Appendix A - Nursing workforce statistics<sup>viii</sup>**

Assessing the full impact of changes to EU migration is made more difficult by a lack of detailed nursing workforce data across the health and care settings in the UK. The NMC registration statistics give a picture of the pool of registered nurses as a whole who are eligible to practice, however it is important to note this is *not* those everyone who is actively in the workforce. There is no data set on the unregistered health and care workforce, nor on the number of EU nurses currently working outside the NHS.<sup>ix</sup>

There remains no comprehensive assessment of the workforce needed to meet population needs now or in the future. The domestic workforce data and data published on variables such as bed occupancy and admissions to A&E do not provide a full picture of the health and care needs of society as a whole. The RCN have been calling for Government and the health system to urgently undertake a full assessment of population needs now, and in the future, and to plan resources, funding and the workforce accordingly. Arbitrarily cutting off the international workforce supply of staff is short sighted and will leave our most vulnerable care residents and patients without access to the care they need.

### **International nursing workforce in the UK: Non-EEA**

- 11% of our total RN workforce in the UK are international nurses. As of September 2019, there were 77,065 non-EEA nurses on the register.
- Between September 2015 and September 2019 the number of non-EEA nurses joining the NMC register grew by 505% (from 1,323 to 8,005).
- In addition, the number of non-EEA nurses who left the register over this same period fell by 11.9% (from 1,664 to 1,466).

### **EEA nursing workforce in the UK**

- 4% of our total RN workforce in the UK are EEA nationals. As of September 2019, there were 30,804 EEA nurses on the register.
- Between September 2015 and September 2019 the number of EEA nurses joining the NMC register fell by 90% (from 8,770 to 841)
- In addition, the number of EEA nurses who left the register over this same period grew by 81% (from 1,613 to 2,922)

### **Domestic workforce in the UK**

- As of September 2019, there were 559,640 UK-educated nurses on the register. This equates to 79% of our total RN workforce.
- As of September 2019, there were 1,488 nursing associates on the register. This equates to 0.2% of our total RN workforce.
- Between September 2015 and September 2019 the number of UK nurses joining the NMC register grew by 19% (from 18,390 to 21,878)
- In addition, the number of UK nurses who left the register over this same period increased by 3% (from 20,917 to 21,609)

<sup>i</sup> Nursing and Midwifery Council, 'Registration Statistics', 2020. Available at: <https://www.nmc.org.uk/about-us/reports-and-accounts/registration-statistics/>

<sup>ii</sup> Skills for Care, 'The state of the adult social care sector and workforce in England', October 2019. Available at: <https://digital.nhs.uk/data-and-information/publications/statistical/nhs-workforce-statistics>

<sup>iii</sup> NHS Employers, Mobility of health professionals across Europe, Available at: <http://www.nhsemployers.org/your-workforce/recruit/employer-led-recruitment/international-recruitment/mobility-of-health-professionals-across-europe>. June 2016.

<sup>iv</sup> NHS Digital, NHS Workforce Statistics, November 2019. Available at: <https://digital.nhs.uk/data-and-information/publications/statistical/nhs-workforce-statistics>

<sup>v</sup> Government policy statement on the UK's future points-based immigration system, 2020. Available at: <https://www.gov.uk/government/publications/the-uks-points-based-immigration-system-policy-statement/the-uks-points-based-immigration-system-policy-statement>

<sup>vi</sup> Royal College of Nursing, 'Royal College of Nursing response to Migration Advisory Committee call for evidence: Partial review of the shortage occupation lists for the UK and Scotland', 2014. Available at: [https://www2.rcn.org.uk/\\_data/assets/pdf\\_file/0011/603101/96.14\\_Call\\_for\\_Evidence\\_Partial\\_review\\_of\\_the\\_Shortage\\_Occupation\\_Lists\\_for\\_the\\_UK\\_and\\_for\\_Scotland.pdf](https://www2.rcn.org.uk/_data/assets/pdf_file/0011/603101/96.14_Call_for_Evidence_Partial_review_of_the_Shortage_Occupation_Lists_for_the_UK_and_for_Scotland.pdf).

<sup>vii</sup> Government Whitepaper on the UK's future skills-based immigration system, 2018. Available at: <https://www.gov.uk/government/publications/the-uks-future-skills-based-immigration-system>

<sup>viii</sup> Nursing and Midwifery Council, 'Registration Statistics', 2020. Available at: <https://www.nmc.org.uk/about-us/reports-and-accounts/registration-statistics/>

<sup>ix</sup> Migration Advisory Committee 'Interim update – EEA workers in the UK labour market' 2018. Available at: <https://www.gov.uk/government/publications/eea-workers-in-the-uk-labour-market-interim-update>