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Baroness Williams

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Baron Jay of Ewelme
House of Lords
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By Email Only

17 February 2022

Dear Michael,

Thank you for your letter of 14 January 2022 about the UK's Electronic Travel Authorisation (ETA) scheme.

The ETA scheme will broadly apply to those who can visit the UK or transit through the UK who do not currently need a visa for short stays or do not have an immigration status prior to travelling. At present, non-visa nationals coming to the UK for up to six months as visitors (and in limited other categories) can travel to the UK solely on the basis of their nationality, evidenced by their passport or other travel document. This information is sent to the Government by the majority of carriers as Advance Passenger Information shortly before the individual embarks on their journey. This means that UK border control and law enforcement authorities have less information and time to assess the risk posed by most non-visa nationals in advance of their arrival in the UK.

The ETA scheme will close the current gap in advance permission and enhance our ability to prevent the travel of those who pose a threat to the UK.

I would like to make clear that people with any form of existing UK immigration status will not be required to obtain an ETA. As such, those who work cross-border at present using a Frontier Worker permit will be unaffected by the introduction of an ETA requirement.

The exact details of the scheme, including the criteria an application will be assessed against, will be announced in due course. Once the Nationality and Borders Bill receives Royal Assent, the Home Office will lay new Immigration Rules before Parliament, setting out the detail of the scheme. The Immigration Rules will set out

detail regarding but not limited to, the validity of an ETA and powers to refuse and/or cancel an ETA.

You have asked about the cost and processing times of an ETA application. Again, this detail will be announced in due course. I can, however, assure you that the fee will remain competitive with that of equivalent systems run by other countries. In regard to processing time, in most cases, where there are no concerns about an individual, we expect ETA applications to be processed within minutes. The application process will be quick and light touch. Once granted, an ETA will be valid for multiple journeys over an extended period, minimising the burden on those making frequent trips, including those across the Ireland-Northern Ireland border.

The UK Government remains committed to the Belfast (Good Friday) Agreement and ensuring there is no hard border between Northern Ireland and Ireland. I can confirm that, as now, the UK will not operate routine immigration controls on journeys from within the Common Travel Area, with no immigration controls whatsoever on the Ireland-Northern Ireland land border. The ETA scheme is compatible with the operation of the Common Travel Area.

Minister Foster's remarks at the Northern Ireland Affairs Committee in December 2021 was in reference to intelligence-led operational activity, which is used to tackle known abuse of the CTA and is only undertaken away from the land border. The ETA scheme will not amount to a change in position regarding documentary checks at ports and airports.

However, as is currently the case, individuals arriving in the UK, including those crossing the land border into Northern Ireland, will need to continue to enter in line with the UK's immigration framework, including the requirement to obtain an ETA when it is introduced. Anyone entering the UK without an ETA or any other form of immigration permission where required will be entering illegally and may be subject to enforcement action, if encountered during intelligence-led operational activity, as per the process now.

You have asked about the implications for those who are encountered in the UK without an ETA. Under the Illegal Entry offence, those who are found to have 'knowingly' sought to enter the UK without an ETA or another form of permission will be liable, in England and Wales, to imprisonment for a term not exceeding 4 years or a fine (or both). I want to, however, make clear that this is not an attempt to prosecute everyone who arrives without the required ETA prosecutions will focus on egregious cases. We will very carefully examine the individual circumstances of each case and work with the Crown Prosecution Service in England and Wales and the Public Prosecution Service in Northern Ireland, who will determine whether a prosecution is proportionate and in the public interest. The Government will not criminalise those who are simply living their everyday lives.

Instead, under this offence, prosecution will be targeted for those migrants where there are aggravating factors involved, for example: by causing danger to themselves or others, including rescuers; by causing severe disruption to services such as

shipping routes or closure of the channel tunnel, or where they are criminals who have previously been deported from the UK or persons who have been repeatedly removed as failed asylum seekers.

The government recognises that a clear communication strategy is key to tackling any misunderstanding about the requirements to travel to Northern Ireland. Similar to the successful communications strategy employed to advertise the documentary requirements for non-Irish and British citizens travelling from within the CTA to the UK, we will work across government, utilising internal and external stakeholders, and a variety of communications channels to ensure the ETA requirement is communicated clearly. We will work with the Irish Government on the development of such a communication strategy. The UK has a close exchange with Ireland on all matters of bilateral interest, including on this matter.

You have asked about travel to the EU. British and Irish citizens resident in Northern Ireland must adhere to the same requirements as other British and Irish citizens resident in the UK or Ireland, when travelling to the EU. For British citizens, this will include adhering to the ETIAS scheme when introduced irrespective of where in the CTA someone has departed from. In terms of travel to Ireland, the Common Travel Area permits the free movement of British and Irish citizens between the UK and Ireland, plus Jersey, Guernsey, Isle of Man.

Finally, in regard to clause 72, I can confirm that as it stands the practise of not imposing carriers' liability charges for journeys from Ireland to the UK will continue.

I hope this information is useful to the Committee.

A handwritten signature in black ink, appearing to read 'Susan', written in a cursive style.

Baroness Williams of Trafford
Minister of State