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Draft Regulations laid before Parliament under section 42(7) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

IMMIGRATION

NATIONALITY

The Immigration and Nationality (Fees) (Amendment No. 2) Regulations 2008

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Amendment

2.—(1) The Immigration and Nationality (Fees) Regulations 2007(**d**) shall be amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of "assistance", insert—

> ""certificate of sponsorship" means an authorisation issued by the Secretary of State to a sponsor in respect of one or more applications, or potential applications, for leave to remain or enter the United Kingdom under the immigration rules;"; and

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(**a**) In pursuance of section 52(4)(a) of the Immigration, Asylum and Nationality Act 2006.
(**b**) 2006 c. 13.
(**c**) 2004 c.19. Section 42(1) is amended by, and section 42(2A) is inserted by, section 20 of the UK Borders Act 2007 (c. 30).
(**d**) S.I. 2007/1158, as amended by S.I. 2008/544.

(b) after the definition of "the 2007 Order", omit "and" and insert—

""Tier 1 migrant" means a migrant who makes an application of a kind identified in the immigration rules as requiring to be considered under "Tier 1" of the immigration rules' "Points Based System";

"Tier 2 migrant" means a migrant who makes an application of a kind identified in the immigration rules as requiring to be considered under "Tier 2" of the immigration rules' "Points Based System";

"Tier 4 migrant" means a migrant who makes an application of a kind identified in the immigration rules as requiring to be considered under "Tier 4" of the immigration rules' "Points Based System";

"Tier 5 migrant" means a migrant who makes make an application of a kind identified in the immigration rules as requiring to be considered under "Tier 5" of the immigration rules' "Points Based System";

"Tier 5 (Temporary Worker) migrant" means a migrant who makes an application of a kind identified in the immigration rules as requiring to be considered under the category "Tier 5 (Temporary Worker)" of the immigration rules' "Points Based System"; and".

(3) In regulation 5(1) (fees for applications for leave in the United Kingdom), omit sub-paragraphs (a) to (c).

(4) For regulation 5A(**a**) (fees for applications for leave in the United Kingdom) substitute—

"**5A.**—(1) In the case of an application to which article 3(2)(a) or (b) of the 2007 Order applies, where the application is for limited leave to remain in the United Kingdom as a Tier 1 migrant, the fees are those specified in paragraphs (2) and (3).

(2) Where the application is for limited leave to remain in the United Kingdom as a Tier 1 (General) migrant, a Tier 1 (Investor) migrant or a Tier 1 (Entrepreneur) migrant under the immigration rules, the fee is—

(a) subject to sub-paragraph (b), £750;

(b) £350 for an application by a person who has been granted an approval letter under the Highly Skilled Migrant Programme that is valid for such an application.

(3) Where the application is for limited leave to remain in the United Kingdom as a Tier 1 (Post Study Work) migrant under the immigration rules the fee is £400.

(4) This regulation is subject to regulations 9, 12, 13 and 14."

(5) In regulation 5B(2)(**b**) (fees for applications for leave in the United Kingdom)—

(a) omit sub-paragraphs (e) to (g);

(b) after sub-paragraph (m), omit "or"; and

(c) after sub-paragraph (n), insert,

"; or

(o) of a kind identified in the immigration rules as requiring to be considered under a "Points Based System"."

(6) After regulation 5B (fees for applications for leave in the United Kingdom), insert—

"**5C.**—(1) In the case of an application to which article 3(2)(a) or (b) of the 2007 Order applies, where the application is for limited leave to remain in the United Kingdom as a Tier 2 migrant, the fee is £400.

(2) This regulation is subject to regulations 9, 12, 13 and 14.".

(**a**) Regulation 5A is inserted by S.I. 2008/544.
(**b**) Regulation 5B is inserted by S.I. 2008/544

(7) In regulation 9 (exceptions in respect of fees for leave to remain applications), after "5A" insert, ", 5C or, insofar as the application is in made for leave to remain as a Tier 5 (Temporary Worker) migrant, 5D.

(8) In regulation 12, (exceptions in respect of fees for leave to remain applications), after "5B" insert, ", 5C, 5D".

(9) In regulation 15(1) (fees for immigration employment documents), omit sub-paragraph (a) and "or" which follows it.

(10) Omit regulation 17 (fees for immigration employment documents).

(11) In regulation 20(1) (fees for nationality applications), for "article 3(2)(h) to (k)", substitute "article 3(2)(h) to (l)".

(12) For regulation 20A(**a**) (fees for sponsorship applications) substitute—

"**20A.—(1)** In the case of an application to which article 3(2)(p) of the 2007 Order applies, where the application is not in respect of a person who, if granted a sponsorship licence, would be a small sponsor, and the application is for a licence referred to in paragraph (2), the fee is £1000.

(2) The sponsorship licences are—

(a) a sponsorship licence in respect of Tier 2 migrants;

(b) a sponsorship licence in respect of Tier 2 and Tier 4 migrants;

(c) a sponsorship licence in respect of Tier 2 and Tier 5 migrants; and

(d) a sponsorship licence in respect of Tier 2, Tier 4 and Tier 5 migrants.".

(13) In regulation 20B(1)(**b**) (fees for entry clearance applications)—

(a) in sub-paragraph (a), after "Tier 1 (General) migrant", insert, ", Tier 1 (Entrepreneur) migrant or a Tier 1 (Investor) migrant";

(b) after sub-paragraph (b) insert—

"(ba) where the application is for entry clearance as a Tier 1 (Post Study) migrant under the immigration rules the fee is £205;

(bb) where the application is for entry clearance as a Tier 2 migrant the fee is £205."

(c) after sub-paragraph (d)(vi), omit "or"; and

(d) after sub-paragraph (d)(vii), insert—

"; or

(viii) as a Tier 5 migrant,".

(14) In regulation 20C(**c**), after paragraph (b), omit "or" and after paragraph (c) insert—

"; or

(d) the application is—

(i) for entry clearance as a Tier 1 (General) migrant under the immigration rules, a Tier 2 migrant or a Tier 5 (Temporary Worker) migrant; and

(ii) is in respect of a person who is a national of a state which has ratified the Council of Europe Social Charter or the Council of Europe Revised Social Charter."

(15) After regulation 20E(**d**) (fee for a certificate of entitlement to the right of abode), insert—

(**a**) Regulation 20A is inserted by S.I. 2008/544.
(**b**) Regulation 20B is inserted by S.I. 2008/544.
(**c**) Regulation 20C is inserted by S.I. 2008/544.
(**d**) Regulation 20E is inserted by S.I. 2008/544.

"**Fee for the process of issuing a certificate of sponsorship**

20F.—(1) Subject to paragraph (2), in the case of a process to which article 5 of the 2007 Order applies, the fee shall be £170 where the process is the issuing of a certificate of sponsorship in respect of an application or potential application for leave to remain or enter the United Kingdom as a Tier 2 migrant.

(2) No fee is payable in respect of the process for which a fee is specified in paragraph (1) where the certificate is issued in respect of a person who is a national of a state which has ratified the Council of Europe Social Charter or the Council of Europe Revised Social Charter.".

Home Office
Date

Name
Minister of State

We consent

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Secretary of State specified in the Immigration and Nationality (Fees) Order 2007 (S.I. 2007/807), as amended by the Immigration and Nationality (Fees) (Amendment) Order 2008 (S.I. 2008/166), (the "Fees Order 2007") applications and processes in connection with immigration or nationality in respect of which she was going to charge a fee. These Regulations, which amend the Immigration and Nationality (Fees) Regulations 2007 (S.I. 2007/1168), as amended by the Immigration and Nationality (Fees) (Amendment) Regulations 2008 (S.I. 2008/544) (the "2007 Regulations"), specify a fee for certain of those matters specified in the 2007 Order. The fees for certain other applications specified in the Fees Order 2007 will be specified in other Regulations made under section 51(3) of the Immigration, Nationality and Asylum Act 2006 (the "2006 Act").

The Secretary of State has in these Regulations specified fees for the following applications:

(a) leave to remain in the United Kingdom where the application is for limited leave to remain in the United Kingdom as a Tier 1 (General) migrant, a Tier 1 (Investor) migrant, a Tier 1 (Entrepreneur) migrant and a Tier 1 (Post Study) migrant (regulation 5A as substituted by regulation 2(4));

(b) leave to remain in the United Kingdom where the application is for limited leave to remain in the United Kingdom as a Tier 2 migrant, (regulation 5C as inserted by regulation 2(6));

(c) an application for registration as a British citizen under the British Nationality (Hong Kong) Act 1997 (regulation 2(11));

(d) a sponsorship licence, save for such a licence granted to a small sponsor (as defined in the 2007 Regulations), which is granted to a sponsor in respect of Tier 2 migrants, Tier 2 and Tier 4 migrants, Tier 2 and Tier 5 migrants or Tier 2, Tier 4 and Tier 5 migrants (each as defined in these Regulations) (regulation 20A as substituted by regulation 2(12));

(e) entry clearance as a Tier 1 (Investor) migrant, a Tier 1 (Entrepreneur) migrant and a Tier 1 (Post Study) migrant (regulation 20B as amended by regulation 2(13)); and

(f) entry clearance as a Tier 2 migrant (regulation 20B).

In these Regulations, the Secretary of State has also specified a fee for the process of issuing a certificate of sponsorship (as defined in these Regulations) in respect of an application or potential application for leave to remain or enter the United Kingdom as a Tier 2 migrant (regulation 20F, as inserted by regulation 2(15)).

These Regulations remove fees in respect of the following applications that are replaced by the points based system under the immigration rules:

(a) leave to remain in the United Kingdom where the application is for limited leave to remain in the United Kingdom as a person intending to establish himself in business, an innovator or an investor under the immigration rules (regulation 2(3)); and

(b) an immigration employment document, where the application is made in respect of a person seeking to enter the United Kingdom under the Highly Skilled Migrant Programme (regulation 2(10)).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the UK Border Agency website: www.bia.homeoffice.gov.uk. Alternatively please contact Chris Nickson, UK Border Agency, Charging Programme, Vulcan House, Sheffield, PO Box 3468, S3 8WA, email: chris.nickson2@homeoffice.gsi.gov.uk. In addition, it is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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