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. 3) Regulations 2008

Made - - - -	***
Coming into force - -	*27th November 2008*

The Secretary of State makes the following Regulations with the consent of the Treasury(**a**) under sections 51(3) and 52(3) of the Immigration, Asylum and Nationality Act 2006(**b**) and in reliance on sections 42(1) and 42(2A) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(***c***).

In accordance with section 42(6) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, the Secretary of State has consulted with such persons as appear to her to be appropriate prior to making these Regulations. In accordance with section 42(7) of that Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation and Commencement

1. These Regulations may be cited as the Immigration and Nationality (Fees) (Amendment No. 3) Regulations 2008 and shall come into force on 27th November 2008.

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 "Tier 5 migrant" insert "and"; and

(b) omit the definition "Tier 5 (Temporary Worker) migrant" and the "and" that follows it.

(3) In regulation 5A (fees for applications for leave in the United Kingdom), for paragraph (3) substitute—

(**a**) In pursuance of section 52(5)(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 and S.I. 2008/1695.

"(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—

(a) £400 for an application made by post or courier; or

(b) £600 where such application is made in person at a Public Enquiry Office of the UK Border Agency of the Home Office.".

(4) For regulation 9 (exceptions in respect of fees for leave to remain applications) substitute—

"**9.** No fee is payable in connection with applications referred to in—

(a) regulation 3;

(b) regulation 5A, in so far as the application is for leave to remain as a Tier 1 (General) migrant or a Tier 1 (Entrepreneur) migrant under the immigration rules;

(c) regulation 5C; or

(d) regulation 6, in so far as the application is for work permit employment under the immigration rules, as a highly skilled migrant under the immigration rules, as a Tier 1 (General) migrant or a Tier 1 (Entrepreneur) migrant under the immigration rules or a Tier Two migrant,

where the application 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.".

(5) In regulation 12 (exceptions in respect of fees for leave to remain applications), omit ", 5D".

(6) Omit regulations 15, 16 and 18 (fees for immigration employment documents).

(7) At the beginning of regulation 20A (fees for sponsorship applications), insert "Subject to regulation 20AA,".

(8) After regulation 20A (fees for sponsorship applications), insert—

"**20AA.** In the case of an application to which article 3(2)(p)(**a**) of the 2007 Order applies, where such application is for a licence referred to in sub-paragraphs (a) to (d) of regulation 20A and is in respect of a person who—

(a) holds a valid licence in respect of Tier 4 migrants, Tier 5 migrants or Tier 4 and Tier 5 migrants; and

(b) is not a small sponsor,

the fee is £600.".

(9) For regulation 20B (fees for entry clearance applications), substitute—

"**20B.** In the case of an application to which article 3(2)(aa)(**b**) of the 2007 Order applies—

(a) subject to sub-paragraphs (b), (c) and (d), where the application is for entry clearance as a Tier 1 (General) migrant, a Tier 1 (Investor) migrant or a Tier 1 (Entrepreneur) migrant under the immigration rules, the fee is £600;

(b) subject to sub-paragraph (d), where the application is for entry clearance as a Tier 1 (General) migrant or a Tier 1 (Entrepreneur) migrant under the immigration rules and is in respect of a person who is a national of a state which has ratified the Council of Europe Social Charter, the fee is £540;

(c) subject to sub-paragraph (d),where the application is for entry clearance as a Tier 1 (General) migrant under the immigration rules and is in respect of a person who has been granted an approval letter under the Highly Skilled Migrant Programme that is valid for such an application, the fee is £200;

(d) where the application is for entry clearance as a Tier 1 (General) migrant under the immigration rules and is in respect of a person who—

(**a**) Article 3(2)(p) was inserted into S.I. 2007/807 by S.I. 2008/106.
(**b**) Article 3(2)(aa) was inserted into S.I. 2007/807 by S.I. 2008/106.

(i) has been granted an approval letter under the Highly Skilled Migrant Programme that is valid for such an application; and

(ii) who is a national of a state which has ratified the Council of Europe Social Charter,

the fee is £180;

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

(f) subject to sub-paragraph (g), where the application is for entry clearance as a Tier 2 migrant, the fee is £205;

(g) where the application is for entry clearance as a Tier 2 migrant and is in respect of a person who is a national of a state which has ratified the Council of Europe Social Charter, the fee is £185;

(h) where the application is for entry clearance for settlement in the United Kingdom, the fee is £515;

(i) where the application is for entry clearance to the United Kingdom other than—

(i) for the purposes listed in sub-paragraphs (a) to (h);

(ii) as a visitor for a period of six months or less under the immigration rules;

(iii) as a student under the immigration rules;

(iv) as a Tier 4 migrant;

(v) as a Tier 5 migrant; or

(vi) for passing through the United Kingdom,

the fee is £205.

(2) This regulation is subject to regulation 20C and regulation 20D.".

(10) In regulation 20C (exceptions and waivers in respect of fees for entry clearance applications)—

(a) after paragraph (b) insert "or"; and

(b) omit paragraph (d) and the "or" before it.

Home Office
Date

Name
Minister of State

We consent

Two 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. 2008/106) applications and processes in connection with immigration or nationality in respect of which a fee was to be charged. 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) and the Immigration and Nationality (Fees Amendment No.2) Regulations 2008 (S.I. 2008/1695)) (the "2007 Regulations") specify the fees for an application for:

(a) limited leave to remain in the United Kingdom as a Tier 1 (Post Study Work) migrant under the immigration rules that is made in person at a Public Enquiry Office of the UK Border Agency of the Home Office (regulation 5A(3)(b), as inserted by regulation 2(3));

(b) entry clearance as a Tier 1 (General) migrant and a Tier 1 (Entrepreneur) migrant under the immigration rules in respect of a person who is a national of a state which has ratified the Council of Europe Social Charter ("CESC national") (regulation 20B, as substituted by regulation 2(9));

(c) entry clearance as a Tier 2 migrant under the immigration rules in respect of a person who is a CESC national (regulation 20B); and

(d) a sponsorship licence in respect of:

(i) Tier 2 migrants;

(ii) Tier 2 and Tier 4 migrants;

(iii) Tier 2 and Tier 5 migrants; or

(iv) Tier 2, Tier 4 and Tier 5 migrants,

where the application is in respect of a person who holds a valid licence in respect of Tier 4 migrants, Tier 5 migrants or Tier 4 and 5 migrants and is not a small sponsor (as defined in the 2007 Regulations) (regulation 20AA, as inserted by regulation 2(8)).

These Regulations remove the exemption from the requirement to pay a fee for an application for leave to remain in any category of Tier 1 under the immigration rules that is made in respect of a person who is a CESC national or a national of a state which has ratified the Council of Europe Revised Social Charter ("CERSC national"), and replace it with an exemption for an application for leave to remain as a Tier 1 (General) or as a Tier 1 (Entrepreneur) migrant that is made in respect of a CESC national or a CERSC national (regulation 9, as substituted by regulation 2(4)).

These Regulations remove the exemption from the requirement to pay a fee for an application for entry clearance as a Tier 1 migrant or as a Tier 2 migrant that is made in respect a CESC national or a CERSC national (regulation 20C as amended by regulation 2(10)). The reference in regulation 20C to a Tier 5 (Temporary Worker) migrant is also removed as it is redundant.

The Regulations also remove the fee for an immigration employment document (regulation 2(6) of these Regulations).

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