EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND NATIONALITY (FEES) (AMENDMENT) ORDER 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Seema Malhotra MP, Minister for Migration and Citizenship at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Nicola Sills, Deputy Director – Strategic Finance and Risk, Corporate and Delivery, Finance Directorate at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Milind Deshpande at the Home Office can be contacted by email: feesandincomeplanning.requests@homeoffice.gov.uk with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument, by amending the Immigration and Nationality (Fees) Order 2016 (S.I. 2016/177) (as amended) ("the 2016 Order"), will:

(i) Increase the maximum amounts that can be charged ('fee maxima') for an Electronic Travel Authorisation (ETA), approval of sponsorship by a sponsor on work visa routes, and for naturalisation as a British citizen or a British Overseas Territories citizen and certain nationality related services. These changes are being made to enable the Home Office to increase the actual amounts of fee charged for the exercise of these functions.

(ii) Remove the fee provision related to Electronic Visa Waiver (EVW), which is a technical amendment as the EVW route is no longer available in the immigration system.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland, and Northern Ireland, and also to the Isle of Man and the Bailiwicks of Guernsey and Jersey to the extent it is specified in this Order.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the same as its extent.

5. Policy Context

What is being done and why?

5.1 This instrument amends several different fee maxima in order to create additional headroom in respect of fees charged for certain immigration and nationality functions. These changes are being made in order to facilitate planned increases to these fees through a subsequent amendment to the Immigration and Nationality (Fees) Regulations 2018 ("the 2018 Regulations"), which the department intends to lay when parliamentary time allows. In each case, the proposed fee maxima level reflects the fee level that the department intends to set for an application or a service within that category. Where a maxima covers more than one type of application or service within a category, the increase in fee maxima applies to the whole category; however, it is not intended that all individual fees (in that category) will increase to the new fee maxima. Further detail on this point is set out below.

5.2 The department is seeking to implement changes to fees to generate additional income from end users to support the funding of the migration and borders system and reduce reliance on funding from the taxpayer. This will support an overall balanced financial position for the department and is in line with the department's approach to immigration and nationality fees over the past several years.

5.3 These changes will form part of a wider package of fee changes to be implemented through the planned amendment to the Regulations, with the full scope of those changes to be set out in the explanatory memorandum for that instrument.

Electronic Travel Authorisation (ETA)

5.4 ETA is a permission to travel in electronic form (linked to an individual's passport) which specified individuals will be required to apply for and obtain in advance of their journey to the United Kingdom. It is a requirement in the Immigration Rules for individuals (excluding British and Irish citizens) visiting or transiting through the United Kingdom, who do not need a visa, entry clearance or who do not hold existing immigration status in the United Kingdom. ETA has been implemented on a phased basis, with the full rollout of the scheme (including to European nationals) due to be completed in Spring 2025.

5.5 A fee maximum of £15 and chargeable fee of £10 was set for the initial rollout phase of the scheme in Autumn 2023, with the intention for this fee level to be reviewed in advance of full rollout. Following completion of that review, this amendment will now increase the maxima level to £16, with a view to increasing the chargeable fee to the same amount through the planned amendment to the 2018 Regulations when parliamentary time allows. This increase will deliver significant additional income for the department which is estimated at £140 million in 2025/2026 based on current forecasts.

5.6 The amendment which increases the fee maxima for an ETA also applies to the Isle of Man and the Bailiwicks of Guernsey and Jersey as they will be introducing their own ETA schemes eventually on the same lines as the United Kingdom's ETA scheme.

Sponsoring a worker on sponsored work visa routes

5.7 Under the arrangements for sponsorship on work routes, employers are required to assign a Certificate of Sponsorship (CoS) to employees who need a visa to work and

stay in the United Kingdom. The individuals then apply for a permission to enter or stay in the United Kingdom as a sponsored worker based upon the CoS issued to them. This system will eventually be replaced by the Sponsor a Worker (SaW) process which has begun to be rolled out on a phased basis. Both CoS and SaW chargeable functions have associated fee maxima which are set at £300. Currently, there are two tiers of fees charged –

(i) £239 in relation to applications for Skilled Worker, T2 Minister of Religion, Global Business Mobility – Senior or specialist worker, and International Sportsperson (over 12 months).

(ii) £25 in relation to applications for Temporary Worker, other sub-routes within Global Business Mobility, Scale-up route, and International Sportsperson (12 months or less).

5.8 The department intends to increase sponsorship fees through an amendment to the 2018 Regulations when parliamentary time allows, with the £239 fee increased to £525 and the £25 fee increased to £55. In order to implement this change, this instrument will increase the relevant fee maxima for CoS and SaW to £525. This increase is estimated to deliver an additional c.£111 million income in 2025/2026.

Applying for naturalisation as a British citizen or a British Overseas Territories citizen

5.9 Currently, a fee maxima of £1,500 applies to applications for naturalisation as a British citizen (current fee £1,500) or a British Overseas Territories citizen (current fee £1,000). The department intends to increase the fee to apply for naturalisation as a British citizen from £1,500 to £1,605 through an amendment to 2018 Regulations when parliamentary time allows. Accordingly, this instrument will amend the relevant maxima from £1,500 to £1,605 to create the necessary headroom for this change. The fee for naturalisation as a British Overseas Territories citizen is planned to increase to £1,070 when parliamentary time allows, which is within the existing maxima. These changes are estimated to deliver c. £18 million in additional income in 2025/2026.

Applying for nationality related services

5.10 The fee maxima in respect of nationality-related services are to increase as set out below. These changes will create the necessary headroom to increase relevant fees to the new maxima level through Regulations when parliamentary time allows, delivering c.£1 million additional income in 2025/2026 –

(i) Registration of a declaration of renunciation of British citizenship or renunciation of one of the other categories specified at row 7.3 in Table 7, Article 10 in the 2016 Order – current fee maxima of £450 increases to £482 (current fee charged £450).

(ii) Amendment to a certificate of registration or naturalisation as a British citizen- current fee maxima of £400 increases to £428 (current fee £400).

(iii) Review of a decision related to immigration and nationality – current fee maxima of £450 increases to £482. This fee maxima applies to applications for the review of an application for a certificate of registration or naturalisation, or for a certificate of entitlement, which has been refused (current fee £450). The said fee maxima is also applicable to administrative review of a decision in connection with an immigration application (current fee £80).

(iv) Issuance of a document confirming that a person has an entitlement to the right of abode (i.e. the right to live without any immigration restrictions) in the

United Kingdom – current fee maxima of £550 increases to £589 (current fee charged £550). This fee maxima is also applicable for a letter or other document confirming a person's nationality status or that a person is not a British citizen (current fee £429) which is planned to increase to £459 when parliamentary time allows, which is within the existing maxima.

(v) Supply of a certified copy of a notice, certificate, order, declaration or entry given, granted or made under the 1981 Act, any of the former nationality Acts, or the 1997 Act or supply of a copy, or replacement, or amended version of any of the documents specified in Table 7 in the 2016 Order – current fee maxima of £400 increases to £428 (current fee charged £400).

Removing fee provision for Electronic Visa Waiver (EVW)

5.11 This Order also removes the fee provision related to EVW, which was a digital travel authorisation that nationals of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates were required to apply for when visiting the United Kingdom. EVW was replaced by ETA in October 2023 for nationals of Qatar, and then from February 2024 to the other countries listed above. Since the nationals of these countries are now required to apply for an ETA, applications for EVW have been closed since February 2024. This instrument therefore removes the EVW fee provision from the 2016 Order and makes a consequential amendment to the 2018 Regulations to remove the related fee provision charging a £30 fee for EVW. This is a technical amendment in view of applications for EVW no longer being available.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends provisions of the 2016 Order, which set out the maximum that may be charged for certain functions related to immigration and nationality as outlined above. These provisions in turn underpin the specific fees charged as set out in the 2018 Regulations, and the effect of amending the provisions in the Order is to increase the department's flexibility to implement changes to fees through subsequent amendments to the 2018 Regulations. The charging powers that underpin both instruments are provided by Section 68 of the Immigration Act 2014.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 There was no specific public consultation on the above changes. The Home Office conducted a targeted consultation in November and December 2013 on how its charging strategy works in practice, to help inform and shape the approach to charging in the future. This in turn informed the development of the fee charging powers set out at Section 68(9) of the Immigration Act 2014, including the power to set fees at a level that reflects the benefits accruing to the applicant as the result of a successful application, as well as to recover costs associated with both the relevant immigration and nationality functions and wider functions within the migration and borders system. These powers continue to inform the approach to fees in this instrument, with these changes intended to increase the proportion of the system's costs met through fees payable by end users, rather than through general taxpayer funding.

8. Applicable Guidance

8.1 The fee table published on GOV.UK that sets out the fee maxima will be updated to reflect the changes made by this instrument on the date that it becomes effective.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

Increases to fee maxima-

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

9.2 There is no economic impact from the Fee Order itself. The Impact Assessment assesses the theoretical impact of charging the proposed maxima, primarily in terms of income that could be generated to the government under potential future fee increase to the proposed maxima, and such impact could be approximately up to £270 million per annum. When considered alongside the hypothetical estimated costs of the small proportion of potential deterred applicants (including foregone fiscal contributions, spend by ETA holders and IHS revenue), this gives an overall hypothetical Net Present Social Value (NPSV) of £203.5 million across a five year appraisal period in a central scenario.

Removal of EVW fee provision-

9.3 EVW was available for Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates. It was decommissioned in February 2024 and replaced by ETA for relevant applicants from those countries. The change made by this SI is technical in nature, and, therefore, will not have any impact.

Impact on businesses, charities and voluntary bodies

9.4 There are no direct or indirect impacts on business, charities or voluntary bodies, as a result of these changes as the legislation does not change the fee being charged, only adjusting the maxima that could theoretically be charged in the future.

9.5 The legislation does not impact small or micro businesses. There is no impact on the public sector because an increase in the fee maxima grants the Home Office the ability to raise fees above their current maximum level and does not result in any changes to actual fees charged.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Home Office will monitor the impact of fees for the applications and services which are set in this Order. The Home Office usually reviews fees and charges for immigration and nationality applications annually.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Seema Malhotra MP, Minister for Migration and Citizenship at the Home Office has made the following statement:

"Fees for products and services provided for by this instrument are kept under regular review. It is not appropriate in the circumstances to make provision for review. I am satisfied that these Regulations do not impact on small businesses."

10.3 Nevertheless, the Home Office will continue to monitor the impact of this Order.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

Increases to fee maxima and planned increases to fees when parliamentary time allows –

11.1 This instrument makes a number of changes to fee maxima, with the intention of increasing relevant fees to the new maxima level when parliamentary time allows, as set out above. The effect of these subsequent changes will be to increase these fees by more than the rate of inflation, with ETA fees increasing by 60%, CoS/SAW fees by 120% and nationality-related fees by 7%. These increases will be made with the intention of increasing the revenue generated through these fees, in order to reduce the level of taxpayer funding for the migration and borders system that would otherwise be required.

12. European Convention on Human Rights

12.1 The Minister for Migration and Citizenship at the Home Office has made the following statement regarding Human Rights:

"In my view the provisions of the Immigration and Nationality (Fees) (Amendment) Order 2025 are compatible with the Convention rights".

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").