**EXPLANATORY MEMORANDUM TO**

**THE IMMIGRATION AND NATIONALITY (FEES) ORDER 2007**

**2007 No.**

**1.** This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

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

## 2. Description

2.1 This Order sets out the types of applications for immigration or nationality for which a fee is to be paid. The actual fee levels will be specified in subsequent regulations.

2.2 The Order also sets out the services in relation to nationality for which a fee is to be paid. The actual fee levels will be specified in subsequent regulations.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This is the first use of these powers. The Order does not provide for a fee to be paid in respect of any new applications or services in relation to Immigration and Nationality for which a fee is not currently prescribed.

## 4. Legislative Background

4.1 Section 51(1) of the Immigration Asylum and Nationality Act 2006 ("the 2006 Act") enables the Secretary of State by order to require an application or claim made in connection with Immigration or Nationality to be accompanied by a specified fee.

4.2 Section 51(2)(a) of the 2006 Act enables the Secretary of State by order to provide for a fee to be charged by him in respect of the provision on request of a service in connection with immigration or nationality.

4.3 Fees for applications or services in relation to Immigration or Nationality are currently set under a number of different legislative powers.

4.4 The current powers under which fees are prescribed in respect of the applications and services specified in this order will be repealed when the new fees are specified in regulations made under section 51(3) of the 2006 Act.

## 5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

## 6. European Convention on Human Rights

6.1 The Minister of State for Nationality, Citizenship and Immigration has made the following statement regarding Human Rights:

In my view the provisions of the Immigration and Nationality Fees Order 2007 are compatible with the Convention Rights.

## 7. Policy background

7.1 During the course of 2003/04 the Home Office introduced charges for a range of immigration applications to ensure that those who use and benefit from the UK's immigration system met the costs of delivering the administrative service provided. Fees were calculated to recover the full administrative costs (including staffing and overhead costs) of processing applications to the point of conveying a decision. As part of the top to bottom analysis of the immigration system in 2004, the Home Office undertook a further review of its fees, and developed proposals to add to the full cost recovery charging model. Following a formal consultation, changes to the basic administrative fees were made in April 2005 to also include some of the costs of providing the appeals system for applicants who seek leave to remain in the UK.

7.2 We have recently undertaken a public consultation exercise from 30 October to 22 December last year, supported by the publication of *A consultation on a new charging regime for immigration & nationality fees*. The consultation document was made available on the Home Office website and was also sent to over 3,000 people.

7.3 The consultation document set out a number of options for a future charging regime and we are currently considering these options in light of the responses received during this exercise. This Order does not implement any change of policy in this regard. It only provides for a fee to be charged in respect of those applications and services which are specified in the order and which we currently have the power to charge for and have prescribed fees in respect of. Before specifying the new fees by means of regulations under Section 51(3) of the 2006 Act we plan to set out the response to the consultation document.

## 8. Impact

8.1 Regulatory Impact assessments will be prepared and published alongside the regulations that will specify the fees for the applications and services specified in this order.

## 9. Contact

Lee Bartlett at the Immigration and Nationality Directorate of the Home Office Tel: 0114 2076559 or e-mail: Lee.Bartlett3@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.