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) Regulations 2008

Made - - - - ***

Coming into force in accordance with regulation 1

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

In accordance with section 42(6) of that Act, 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 the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Immigration and Nationality (Fees) (Amendment) Regulations 2008.

(2) Subject to paragraph (3), these Regulations shall come into force on 29th February 2008.

(3) Regulation 2(11) of these Regulations, in so far as it inserts regulations 20B to 20E, shall come into force on 1st April 2008.

Amendment

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

(2) In regulation 2 (interpretation)—

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

(**a**) 2006 c.13.
(**b**) 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).
(**c**) 2007/1158.

""charity" means an English charity, a Scottish charity or a Northern Ireland charity;"

(b) after the definition of "dependant" insert—

""English charity" means—

(a) subject to paragraph (b), a charity as defined in section 1 of the Charities Act 2006(**a**);

(b) prior to the commencement of section 1 of the Charities Act 2006, a charity within the meaning of section 96 of the Charities Act 1993(**b**);";

(c) after the definition of "leave to remain" insert—

""Northern Ireland charity" means a charity within the meaning of section 35 of the Charities Act (Northern Ireland) 1964(**c**);";

(d) after the definition of "school teacher" insert—

""Scottish charity" means a body entered in the Scottish Charity Register;

"small sponsor" means a sponsor that is either—

(a) subject to paragraph (b)—

(i) a company that qualifies as small in accordance with sections 382 and 383 of the Companies Act 2006(**d**); or

(ii) in the case of a person who is not a company for the purposes of sections 382 and 383 of the Companies Act 2006 and therefore does not qualify as small in accordance with those sections, a person who employs no more than 50 employees;

(b) prior to the commencement of sections 382 and 383 of the Companies Act 2006—

(i) a company that qualifies as small or medium sized for the purposes of section 247 of the Companies Act 1985(**e**); or

(ii) in the case of a person who is not a company for the purposes of section 247 of the Companies Act 1985 and therefore does not qualify as small or medium-sized in accordance with that section, a person who employs no more than 50 employees; or

(c) a charity.

"sponsor" means a person who is granted a sponsorship licence;

"sponsorship licence" means a licence granted by the Secretary of State to a person who, by virtue of such grant, is licensed as a sponsor;".

(3) Omit regulation 4 (Fees for applications for leave in the United Kingdom).

(4) After regulation 5 (Fees for applications for leave in the United Kingdom) insert—

"**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 (General) migrant under the immigration rules, the fee is that specified in paragraph (2).

(2) The fee is—

(a) subject to sub-paragraph (b), £750 for an application made by post or courier; or

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(**a**) 2006 c. 50.
(**b**) 1993 c. 10.
(**c**) 1964 c. 33 (N.I.).
(**d**) 2006 c. 46.
(**e**) 1985 c. 6.

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

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

5B.—(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, other than an application referred to in paragraph (2), where such application is made in person at the relevant Public Enquiry Office of the Border and Immigration Agency of the Home Office, the fee is £595.

(2) The fee referred to in paragraph (1) does not apply to applications for limited leave to remain in the United Kingdom—

(a) for work permit employment;

(b) for the purposes of employment under the Sectors-Based Scheme;

(c) for Home Office approved training;

(d) as a seasonal agricultural worker;

(e) as a person intending to establish himself in business;

(f) as an innovator;

(g) as an investor;

(h) as a retired person of independent means;

(i) as a sole representative,

(j) as a student;

(k) to re-sit an examination;

(l) to write up a thesis;

(m) as a student union sabbatical officer; or

(n) as a prospective student,

under the immigration rules.

(3) This regulation is subject to regulations 7, 11, 12, 13 and 14.".

(5) In regulation 7, (Exceptions in respect of fees for leave to remain applications) omit "indefinite".

(6) In regulation 9, (Exceptions in respect of fees for leave to remain applications), for "4" substitute "5A".

(7) In regulation 10, (Exceptions in respect of fees for leave to remain applications), omit ", 4".

(8) In regulation 11, (Exceptions in respect of fees for leave to remain applications), after "regulation" insert "5B or".

(9) In regulation 12, (Exceptions in respect of fees for leave to remain applications), omit "4," and after "5" insert ",5A, 5B".

(10) In regulation 17 (Fees for immigration employment documents) omit ", or remain in,".

(11) After regulation 20 (Fees for nationality applications) insert—

"**Fees for sponsorship applications**

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

Fees for entry clearance applications

20B.—(1) In the case of an application to which article 3(2)(aa) of the 2007 Order applies—

(a) subject to sub-paragraph (b), where the application is for entry clearance as a Tier 1 (General) migrant under the immigration rules, the fee is £600;

(b) where the application is for entry clearance as a Tier 1 (General) migrant under the immigration rules and is made by 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;

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

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

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

(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) outside the immigration rules on an application by entertainers as referred to in Chapter 17 Section 3 of the Immigration Directorate's Instructions dated April 2007(**a**);

(v) outside the immigration rules on an application by sportsmen and sportswomen as referred to in Chapter 17 Section 8 of the Immigration Directorate's Instructions dated August 2001;

(vi) outside the immigration rules on an application by voluntary workers as referred to in Chapter 17 Section 9 of the Immigration Directorate's Instructions dated July 2003; or

(vii) for passing through the United Kingdom,

the fee is £205.

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

Exceptions and waivers in respect of fees for entry clearance applications

20C. No fee is payable in relation to an application referred to in regulation 20B where—

(a) it is in connection with the official duty of any official of Her Majesty's Government;

(b) it is for the purpose of family reunion under Part 11 of the immigration rules; or

(c) the Secretary of State determines that the fee should be waived.

20D. The official determining the application may waive the payment of a fee required under regulation 20B where—

(a) it is made by a candidate for or holder of a scholarship funded by Her Majesty's Government and is in connection with such scholarship; or

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(**a**) The Immigration Directorate's Instructions are available on the website of the Border and Immigration Agency of the Home Office.

(b) where the official so decides as a matter of international courtesy.

Fee for a certificate of entitlement to the right of abode

20E. In the case of an application to which article 3(2)(lb) of the 2007 Order applies, where such application is made by an applicant who is outside the United Kingdom the fee is £205.".

Home Office
2008

Minister of State

We consent
2008

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) (Amendment) Order 2008 (S.I. 2008/166) (the "2008 Amendment Order"), which amends the Immigration and Nationality (Fees) Order 2007 (S.I. 2007/807), applications and processes in connection with immigration or nationality in respect of which she was going to charge a fee. These Regulations specify a fee for certain of those matters. The fees for certain other applications and processes specified in the 2008 Amendment Order 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 One (General) migrant (regulation 5A as inserted by regulation 2(4));

(b) a sponsorship licence, save for such a licence granted to a small sponsor (as defined in these Regulations) and for which a fee is to be specified in other Regulations made under section 51(3) of the Immigration, Nationality and Asylum Act 2006 (regulation 20A as inserted by 2(11));

(c) entry clearance as a Tier One (General) migrant (regulation 20B as inserted by 2(11));

(d) entry clearance for settlement in the United Kingdom (regulation 20B))

(e) entry clearance for a purpose other than that listed in regulation 20B(1)(d)(i) to (vii); and

(f) a certificate of entitlement to the right of abode made by an applicant who is outside the United Kingdom (regulation 20E).

Regulation 20C and regulation 20D as inserted by regulation 2(11) provide for exceptions and waivers, respectively, to the requirement to pay a specified fee for entry clearance applications.

The Secretary of State has also specified in regulation 5B (as inserted by regulation 2(4)), a fee for applications for leave to remain in the United Kingdom where such application is made in person at the relevant Public Enquiry Office of the Border and Immigration Agency of the Home Office, with the exception of those applications referred to in regulation 5B(2). This fee was previously specified in the Immigration and Nationality (Cost Recovery) (Fees) Regulations 2007.

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 Border and Immigration Agency website: www.bia.homeoffice.gov.uk. Alternatively please contact Chris Nickson, BIA, Charging Programme, 8th Floor, Moorfoot, Sheffield, S3 8WA, email: chris.nickson2@homeoffice.gsi.gov.uk. In addition, it available in the libraries of both Houses of Parliament.

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