STATUTORY INSTRUMENTS

2008 No. 1337

IMMIGRATION

NATIONALITY

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

Made - - - -	*20th May 2008*
Laid before Parliament	*22nd May 2008*
Coming into force - -	*30th June 2008*

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**).

Citation and Commencement

1. These Regulations may be cited as the Immigration and Nationality (Cost Recovery Fees) (Amendment No. 2) Regulations 2008 and shall come into force on 30th June 2008.

Amendment

2.—(1) The Immigration and Nationality (Cost Recovery Fees) Regulations 2007(**b**) 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

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

> ""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";

(**a**) 2006 c.13.
(**b**) S.I. 2007/936, as amended by S.I. 2008/218.

"Tier 5 migrant" means a migrant who makes 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 3(2) (fees for applications for leave in the United Kingdom), omit sub-paragraphs (e) to (h).

(4) After regulation 4 (fees for applications for leave in the United Kingdom), insert—

"**4A.—(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 5 migrant, the fee is £100.

(2) This regulation is subject to regulations 6, 7, 8, 8A, 9 and 10."

(5) In regulation 6 (exceptions in respect of leave to remain applications), after "3" omit "or 4" and insert ", 4 or 4A".

(6) In regulation 7 (exceptions in respect of leave to remain applications), after "3" omit "or 4" and insert ", 4 or 4A".

(7) In regulation 8 (exceptions in respect of leave to remain applications), after "3" omit "or 4" and insert ", 4 or 4A".

(8) After regulation 8, insert—

"**8A.** No fee is payable in respect of an application referred to in regulation 4A insofar as the application is—

(i) for leave to remain as a Tier 5 (Temporary Worker) migrant; and

(ii) 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."

(9) In regulation 10(2)(a) (exceptions in respect of leave to remain applications), after "3" omit "or 4" and insert ", 4 or 4A".

(10) In regulation 10A(1)(**a**), (fees for entry clearance), after sub-paragraph (d), insert—

"(e) where the application is for entry clearance as a Tier 5 migrant, the fee is £99."

(11) In regulation 10B(**b**) (exceptions in respect of entry clearance applications)—

(a) after paragraph (b), omit "or"; and

(b) after paragraph (c) insert—

"; or

(d) the application is—

(i) for entry clearance as 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."

(12) Omit regulation 14 (fee for an application for registration as a British citizen under the 1997 Act).

(13) For regulation 15A(**c**) (fee for sponsorship applications) substitute—

(**a**) Regulation 10A is inserted by S.I. 2008/218.
(**b**) Regulation 10B is inserted by S.I. 2008/218.
(**c**) Regulation 15A is inserted by S.I. 2008/218.

"**Fee for an application for a document recording biometric information**

15A.—(1) Subject to paragraphs (2) and (3), in the case of an application to which article 3(2)(o) of the 2007 Order applies, namely an application for a document recording biometric information within the meaning of section 5 of the UK Borders Act 2007(**a**), where the application is required by regulations made under section 5 of the UK Borders Act 2007, the fee is £30.

(2) No fee is payable in respect of an application referred to in paragraph (1) which is required under the Immigration (Biometric Registration) (Pilot) Regulations 2008(**b**).

(3) No fee is payable in respect of an application referred to in paragraph (1) where the application is made in conjunction with an application for leave to remain in the United Kingdom.

Fees for sponsorship licences

15B.—(1) In the case of an application to which article 3(2)(p) of the 2007 Order applies, where such application is in respect of a person who, if granted a sponsorship licence, would be a small sponsor and the application is for a sponsorship licence in respect of Tier 2 migrants, the fee is £300.

15C.—(1) Subject to regulation 15D, in the case of an application to which article 3(2)(p) of the 2007 Order applies, where the application is—

(a) for a sponsorship licence in respect of Tier 4 migrants;

(b) for a sponsorship licence in respect of Tier 5 migrants;

(c) for a sponsorship licence in respect of Tier 4 migrants and Tier 5 migrants;

(d) in respect of a person who, if granted a sponsorship licence, would be a small sponsor and is for—

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

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

(iii) a sponsorship licence in respect of Tier 2 migrants, Tier 4 migrants, and Tier 5 migrants,

the fee is £400.

15D.—(1) In the case of an application to which article 3(2)(p) of the 2007 Order applies, where such application the application is for a licence referred to in sub-paragraphs (a) to (c) of regulation 15C and is in respect of a person who—

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

(b) is a small sponsor,

the fee is £100.

Fee for the process of issuing a certificate of sponsorship

15E.—(1) Subject to paragraph (2), in the case of a process to which article 5 of the 2007 Order applies, the fee shall be £10 where the process is the issuing of a certificate of sponsorship in respect of an application or applications or a potential application or applications for leave to remain or enter the United Kingdom as a Tier 5 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 an application or applications or a potential application or applications for leave to remain or enter the United Kingdom as a Tier 5

(**a**) 2007 c.30.
(**b**) S.I. 2008/1183.

(Temporary Worker) made by 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
14th May 2008

Liam Byrne
Minister of State

We consent

Alan Campbell
Frank Roy
20th May 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) 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 (Cost Recovery Fees) Regulations 2007 (S.I. 2007/936), as amended by the Immigration and Nationality (Cost Recovery Fees) (Amendment) Regulations 2008 (S.I. 2008/218) (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") and in reliance of section 42(1) and 42(2A) of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (the "2004 Act").

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

(1) leave to remain in the United Kingdom as a Tier 5 migrant (regulation 4A as inserted by regulation 2(4));

(2) entry clearance as a Tier 5 migrant (regulation 10A as amended by regulation 2(10));

(3) a document recording biometric information (regulation 15A as inserted by regulation 2(13));

(4) a sponsorship licence in respect of Tier 2 migrants that is made by a person who, if granted a sponsorship licence, would be a small sponsor (regulation 15B as inserted by regulation 2(13));

(5) a sponsorship licence:

(a) in respect of Tier 4 migrants;

(b) in respect of Tier 5 migrants;

(c) in respect of Tier 4 migrants and Tier 5 migrants (regulation 15C as inserted by regulation 2(13) and regulation 15D as inserted by regulation 2(13));

(6) a sponsorship licence:

(i) in respect of Tier 2 migrants and Tier 4 migrants;

(ii) in respect of Tier 2 migrants and Tier 5 migrants; or

(iii) in respect of Tier 2 migrants, Tier 4 migrants, and Tier 5 migrants

that is made by a person who, if granted a sponsorship licence, would be a small sponsor (regulation 15C as inserted by regulation 2(13)).

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 applications or a potential application or applications for leave to remain or enter the United Kingdom as a Tier 5 migrant (regulation 15E, as inserted by regulation 2(13)).

These Regulations remove the fee in respect of an application for registration as a British citizen under the British Nationality (Hong Kong) Act 1997 (regulation 2(12)) that is now charged in other Regulations made under section 51(3) of the 2006 Act and in reliance of section 42(1) and 42(2A) of the 2004 Act.

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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