EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND NATIONALITY (COST RECOVERY FEES) REGULATIONS 2007

2007 No. 936

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 These regulations specify the fees and their exemptions for certain types of applications and services specified in the Immigration and Nationality (Fees) Order 2007.

2.2 These regulations also set out the consequences of failing to pay those specified fees.

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

3.1 These regulations specify fees in respect of certain of those matters specified in the Immigration and Nationality (Fees) Order 2007, S.I. 2007/807 ('the 2007 Order').

3.2 This is the first time that the Secretary of State has exercised his power under section 51(3) of the Immigration, Asylum and Nationality Act 2006 ('the 2006 Act') to specify fees for those matters specified in the 2007 Order. However the Secretary of State in seeking to exercise this power for the first time is only seeking to specify fees in respect of matters which he currently charges for.

3.3 These regulations set fees at or below cost recovery for certain applications or services specified in the 2007 Order. Fees for other application types specified in that Order which the Secretary of State intends to over-cost charge for are to be specified in separate regulations. Those regulations are to be made in reliance on section 42 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and by virtue of section 42(7) of that Act, a draft of those regulations must be laid before and approved by a resolution of each House of Parliament. A draft of those regulations has been laid before Parliament.

3.4 The table below sets out the current fee levels and the new proposed fees in these regulations.

3.5 These regulations will come into force on 2nd April 2007. They will breach the 21 day rule. This is due to the fact that we have had to undertake a significant programme of legislation, commencing and enacting the new power in s.51 of the 2006 Act. We

were unable to bring forward these regulations until after the 2007 Order was in force. It did not come into force until 15th March 2007. We were aware of this issue and to mitigate this and to ensure that Parliament was afforded sufficient notice of the proposed fee levels a Written Ministerial Statement setting out both our policy intentions and the proposed fee levels was issued in both Houses on 07 March 2007.

Application Type	**Current Fee (£)**	**New Fee (£)**
Leave to Remain as student; to re-sit an examination; to write up a thesis; as a student union sabbatical officer; or as a prospective student,	250	295
Leave to Remain Premium as a student; to resit an examination; to write up a thesis; as a student union sabbatical officer; or as a prospective student	500	500
Other Leave to remain	395	595
Transfer of Conditions / No Time Limit Stamp	160	160
Transfer of conditions / NO time Limit Stamp Premium	500	500
Seasonal Agricultural Workers Scheme Work Card	12	12
Adult Convention Travel Document	42	65
Minor Convention Travel Document	25	45
Adult CID Travel Document	195	210
Child CID Travel Document	115	130
Nationality Adult Registration under s.1 British Nationality Hong Kong Act	120	155
Nationality Minor and Multiple Minor under s.1 British Nationality Hong Kong Act	200	200
Certificate of Approval	135	295
Nationality Renunciation	120	385
Nationality Citizenship Ceremony Fee	68	80
Nationality – Administration of citizenship Oath (not at a ceremony)	5	5
Nationality – Certified Copy of a Notice etc.	20	20

4. Legislative Background

4.1 Section 51(3) of the 2006 Act provides that where an order under that section provides for a fee to be charged, regulations made by the Secretary of State shall specify the amount of the fee.

4.2 That section also enables the Secretary of State to, amongst other things, provide for exceptions and make provision about the consequences of failure to pay a fee.

4.3 Section 52(3) also enables the Secretary of State to, amongst other things, to make different provision for different cases or circumstances.

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 (Cost Recovery 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. We considered these options in light of the responses received during this exercise and considerable market research. The overwhelming majority of respondents favoured the implementation of an intelligent model that uses a number of factors to set fee levels (i.e. value to the migrant and UK competitiveness). The response to the consultation was published on 07th March.

8. Impact

8.1 A Regulatory Impact Assessment has been prepared in respect of the regulations which specify fees for those matters which the Secretary of State is going to over-cost charge for and has been attached to the explanatory memorandum in respect of those regulations.

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.