EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND NATIONALITY (FEES) REGULATIONS 2009

2009 No. 421

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

2. Purpose of the instrument

2.1 These regulations set the fees for some of the applications, processes and services for which the Secretary of State has stated in the Immigration and Nationality (Fees) Order 2007 (as amended by the Immigration and Nationality (Fees) (Amendment) Order 2008 and as amended by the Immigration and Nationality (Fees) (Amendment) Order2009), (the "Fees Order 2007") that she intends to charge a fee.

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

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

3.1 The fees specified in these regulations are in respect of those matters specified in the Fees Order 2007, for which the fee will be set at or below the administrative cost of making the application, in reliance of Section 51(3) of the Immigration, Asylum and Nationality Act 2006 (the "2006 Act").

3.2 Section 51(3) of the 2006 Act also enables the Secretary of State to, amongst other things, confer discretion to reduce or waive a fee, provide for exceptions and make provision about the consequences of failure to pay a fee. Section 52(3) enables the Secretary of State, to make different provision for different cases or circumstances.

3.3 The fees contained in these regulations are set at or below the administrative cost of an application or process in line with the Government's charging model. By charging below the administrative cost of delivery on the application types referred to in this instrument, the Home Office is able to support wider Government objectives, particularly where it is believed that a cost recovery fee would be so high as to damage international competitiveness in this area (e.g. for Tier 4 student visa applications and Tier 5 Temporary

Work applications). To help enable this, the Home Office sets fees for other application types above the cost of delivery.

3.4 Fees for applications which will be charged above the administrative cost must be specified in other regulations laid before and approved by a resolution in each House of Parliament.

3.5 Fees for the matters specified in the Fees Order 2007 which will be charged above the administrative cost are set separately, in regulations subject to the affirmative resolution procedure.

4. Legislative Context

4.1 Section 51(3) of the Immigration, Asylum and Nationality Act 2006 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 Section 52(3) also enables the Secretary of State to, amongst other things, make different provision for different cases or circumstances.

4.3 Section 51(3) of the 2006 Act 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.

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 Borders and Immigration has made the following statement regarding Human Rights:
'In my view the provisions of the Immigration and Nationality Fees regulations are compatible with the Convention rights.'

7. Policy background

What is being done and why

7.1 These Regulations replace all previous Immigration and Nationality (Cost Recovery Fees) Regulations. Unless stated otherwise, the explanation provided here only covers any amendments or new fees introduced to previous Regulations.

7.2 The fees contained in these regulations are set at or below the administrative cost of providing the application, process or service in line with the Government's flexible charging model. By charging below the administrative cost of delivery on the application types referred to in this instrument, the Home Office is able to support wider Government objectives, particularly where it is believed that a cost recovery fee would be so high as to damage international competitiveness in this area (e.g. for Tier 4 student visa applications and Tier 5 Temporary worker applications). To help enable this, the Home Office sets fees for other application types above the cost of delivery.

7.3 These regulations introduce fees for new and existing products/services, make inflationary and above inflationary fee increases to the fees for Immigration and Nationality applications made both in country and out of country and also add a contribution to a Fund, to manage the transitional impacts of migration, to certain applications. The increases in the fees are in line with our charging policy objective that those who benefit directly from our immigration system (migrants, employers and educational institutions) should contribute proportionately more to the costs of the system. Our overall aim is to ensure our fees make an appropriate contribution to the end-to-end costs of the immigration system, thereby reducing the burden on the UK taxpayer. Our method of fee setting will continue to help to protect some routes from significant increases and will contribute to the additional revenue needed to fund enforcement and other necessary improvements to the immigration system.

7.4 We have also published indicative unit costs for each application for 09/10. The unit cost is the estimated average cost to the UK Border Agency of processing each application. We have provided these costs to Parliament to ensure transparency. Although our unit costs are not fixed over the course of the financial year, publishing unit costs in this way will enable applicants to see which fees we set over cost and by how much, and which fees are set under cost and by how much. Full details, including those fees set above cost, are available in a Written Ministerial Statement, available at http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/proposedfeesin200910

Fund to manage the transitional impacts of migration

7.5 For Tier 4 visa and Tier 4 leave to remain applications, the new fees incorporate a contribution to a Fund to manage the transitional impacts of migration, in accordance with the Government's declared policy to create a Fund to help local service providers' deal with transitional pressures of migration.

7.6 Further details on the fund to manage the transitional impacts of migration are available in the Government's response to the consultation on the Green Paper 'The Path to Citizenship', published on 14th July 2008, published at: http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/pathtocitizenship/

7.7 A separate impact assessment has been published at http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/border-cit-imm-bill/supporting-documents/iaofmigrationimpactsfund

7.8 We have agreement with HMT to recover a Fund of tens of millions of pounds. We are raising this money through a Fund contribution from each applicant, including dependants (both for visa applications and in-country extensions of leave) on all routes under the Points Based System Tier 1, Tier 2, Tier 4, Settlement categories, LTR, ILR and Nationality. We believe these routes are those most likely to cause the transitional impacts which the Fund is intended to cover. The additional contribution per dependant recognises the fact that those who bring dependants to the UK tend to consume more in public services than those who do not.

7.9 All fees reflect the benefits to migrants of the various entitlements which each route brings if their application is successful. For Tier 1 for example, there is the entitlement to access the UK labour market, to work without the need for a sponsor, the ability to bring in dependants who can also work without restriction, route to settlement etc. Tier 5 does not bring the same entitlements to applicants (unable to bring dependants, no route to settlement, sponsor required etc.) and this is reflected in the price.

7.10 The tables below set out the current fee levels and the new fees that have been set, at or below cost, by these regulations.

Fees for applications made outside the UK

7.11 The following table shows fees for applications made outside the UK. Some applications include a contribution to a Fund to manage the transitional impacts of migration. These have been increased at or above inflation, but are still set at or below the cost of delivery of these types of application. This is in line with our approach to set fee levels flexibly to take account of the UK's international competitiveness.

7.12 The Tier 4 and Tier 5 fees have been increased above inflation to increase the contribution these migrants make to the costs of the immigration service. This reduces the amount of cross subsidy of these fees from economic routes where the fee is set above cost.

7.13 The fee levels continue to reflect the benefits and entitlements of the routes, and recognise the need to maintain the competitiveness of these services against similar products offered by other countries.

Table (A) - Fees for applications made outside the UK

CURRENT PRODUCTS	Current Fee 2008-09 (£)	New Fee 2009/10 (£)	Unit Costs 09/10 (£)
Non-PBS Visas			
Visitor visa short term	65	67	101
Transit Fee	45	46	70
PBS Visas			
Tier 1 (Post Study)	205	265*	412
Tier 1 (transition)**	200	250*	412
Tier 1 (transition) (CESC)***	180	230*	412
Tier 4	99	145*	258
Tier 5	99	125	188
Tier 5 (Temporary Worker) (CESC)***	90	110	188

* These fees include a Fund contribution.
** The Tier 1 (transition) route is for migrants who have a valid approval letter granted under the Highly Skilled Migrants Programme, and who still need a visa to enter the UK under the Points Based System.
*** We are obliged by European law to offer a fee reduction to Nationals of countries that have ratified the Council of Europe Social Charter 1961 (CESC), who are applying to enter the UK under work routes.

Fees for applications made inside the UK

7.14 The following table shows fees for applications made inside the UK and some applications include a contribution to a Fund to manage the transitional impacts of migration. These have been increased at or above inflation, but are still set at or below the cost of recovery for this type of application, in line with previous Regulations.

7.15 These Regulations are also amended to clarify that where an application for a transfer of conditions is made, the normal transfer of conditions fee will apply in circumstances when a document containing biometric information is produced. This is a technical amendment to differentiate from the £30 fee, which only applies when a biometric document is applied for separately to an immigration application, and issued to replace an existing document containing biometric information that has been lost or stolen.

Table (B) - Fees for applications made inside the UK

CURRENT PRODUCTS	Current Fee 2008-09 (£)	New Fee 2009/10 (£)	Unit Costs 09/10 (£)
Applications made in the UK - outside the Points Based System			
Certificate of Approval	295	295	402
Transfer of Conditions - Postal	160	165	399
Travel Documents Adult (certificate of travel) COT	210	215	243
Travel Documents Adult CTD	72	72	242
Travel Documents Child COT	130	135	258
Travel Documents Child CTD	46	46	245
Nationality Right of Abode	135	140	176
Re-issued Certificates of Nationality	20	75	182
Replacement BID (Biometric Immigration Document)	30	30	51
PBS Routes - Migrant Inside UK			

Tier 4 – Postal	295	357*	357
Tier 5 - Postal	100	125	230
Tier 5 (Temporary Worker) - Postal (CESC)**	N/A	110	230

*These fees include a Fund contribution. An additional £50 for each dependant applied for at the same time is also payable.
**We are obliged by European law to offer a fee reduction to Nationals of countries that have ratified the Council of Europe Social Charter 1961 (CESC), who are applying to enter the UK under work routes.

New fees for existing services

7.16 These Regulations also set new fees for services we have previously offered free of charge.

Vignette Transfer Fee

7.17 Firstly, for transferring a visa vignette between passports. This service is currently offered at posts overseas free of charge. We are now introducing a fee for this service to recover the costs incurred by UK Border Agency. This is equivalent of the existing transfer of conditions service offered to individuals in the UK. The fee for this service has been set at cost. Charging for this service will commence from 6 April.

Status Letters (Immigration / Nationality)

7.18 Some individuals require proof of their immigration or nationality status in the UK. We currently issue a status letter confirming a person's current immigration or nationality status free of charge. We have set a fee for this application, in order to address the costs incurred by UK Border Agency. The fee level has been set at or below the cost to UK Border Agency of processing the application.

7.19 Nationality status letters are provided where a person does not have sufficient documentation to apply directly for a British passport.

7.20 Immigration status letters are provided where a migrant, for example, has lost their passport and requires proof of their immigration status in the UK or wishes to apply for a mortgage or bank account.

7.21 It is important to note that a letter requesting confirmation of the status of an individual is different to a letter requesting the *progress* status of an application, which is free of charge.

7.22 Charging for Nationality status letters will commence from 6 April. Charging for Immigration status letters will commence from the end of June 2009.

Non-Acquisition Letters (Nationality)

7.23 Some foreign nationals are not permitted by the authorities in their home countries to hold dual nationality. If they have resided in the UK for some time, they may be required to prove that they have not been granted British Nationality when they apply for a passport from their own authorities, or to buy property in their own country. We currently issue a Non-Acquisition letter confirming a person is not a British Citizen free of charge. We have set a fee for this application, again in order to address the costs incurred by UK Border Agency. The fee level has been set at or below the cost to UK Border Agency of processing the application. Charging for the Non-Acquisition letters will commence from 6 April.

Work Permit Technical Changes

7.24 The work permit technical change is an application from an employer for a letter to confirm the amendment to information held by the UK Border Agency relating to the employment (within the terms of the work permit arrangements), which does not constitute a change requiring a new application for permission to work. For example, a technical change could be a change of name on marriage, change of your business address, or where both the employee and the specific job they were approved for, move location.

7.25 We currently accept technical change requests free of charge. We have set a nominal fee for this application, in order to address the costs incurred by UK Border Agency and to address the need to have a formal application process to record these changes for migrants who are working in the UK with permission granted under the work permit arrangements which are now superceded by the Points Based System Tier 2. The fee level has been set below the cost to UK Border Agency of processing the application. Charging for this service will commence from end of June 2009.

Call out/Out of hours Fee

7.26 We have set a fee for services that require the attendance by a representative of the Secretary of State away from the office or that are provided outside of normal working hours. Examples of this type of service would include attendance at a person's house in order to take the biometrics required for a visa application, or setting up a facility to collect biometrics from a number of people at a single location. For example, capture of biometric data away from a UK Border Agency public enquiry office. This is an optional service offered by prior appointment only.

7.27 This type of service is already provided in certain countries overseas and the fee is currently set under consular legislation owned by the Foreign and Commonwealth Office. The service will continue to be provided at or below cost, and at the same fee level as charged under Foreign and Commonwealth Office legislation. We have set this fee in Home Office Legislation to properly differentiate the fees which relate to immigration services from those relating to consular services, and to offer provision in the UK. This service is currently offered by UK Border Agency at certain locations overseas, it will be a new service in the UK and introduced on an incremental basis from Autumn 2009.

7.28 An official determining provision of these services has the option to waive this fee, in certain circumstances, at their discretion.

Table (C) - New fees for existing services

NEW PRODUCTS	Current Fee 2008-09 (£)	New Fee 2009/10 (£)	Unit Costs 09/10 (£)
Vignette Transfer Fee	0	75	75
Status Letters (Immigration / Nationality)	0	75	87
Non-Acquisition Letters (Nationality)	0	75	87
Work Permit Technical Changes	0	20	230
Call out/Out of hours fee	N/A*	£128 per hour up to a maximum of £922 a day	£134/hour

* The current fee for 2008-2009 in the consular fees Order 2008 is £121 per hour up to a maximum of £870.

New Services

Confirmation of Acceptance of Studies under Tier 4:

7.29 These regulations also set a fee for issuing Confirmation of Acceptance of Studies under Tier 4. This is set below the cost of recovery. These fees are paid by educational institutions under the Points Based System to show that they are sponsoring a migrant under the Points Based System. This service will commence from September 2009.

7.30 Tier 4, is a new route and will be implemented from 31 March 2009. Tier 4 is for migrants aged 16 or over who wish to study in the UK, and for children at least 4 years old and under the age of 18 whom wish to be educated in the UK. The Immigration Rules will be updated to define and make provisions for Tier 4 migrants by 31 March 2009. For further information on Tier 4, see http://ukba.homeoffice.gov.uk/studyingintheuk/

Table (D) – New Fees

NEW PRODUCT	Current Fee 2008-09 (£)	New Fee 2009/10 (£)	Unit Cost 09/10
In UK			
Tier 4 Confirmation of acceptance for Studies	N/A	10	29

Council of Europe Social Charter Fee Reductions

7.31 We have set a new reduced fee for nationals of countries that have ratified the Council of Europe Social Charter 1961 (the CESC), for applications for leave to remain in the UK as a Tier 5 (Temporary Worker) migrant. The fees are stated above in tables A and B.

7.32 This reduced fee will apply to nationals of Croatia, the Former Yugoslav Republic of Macedonia, and Turkey.

7.33 The fee replaces the full fee exemption which we operated previously for both nationals of countries that have ratified the CESC, and the Council of Europe Revised Social Charter 1996 (the CERSC). Nationals of countries that have ratified the CERSC (Albania, Andorra, Armenia, Azerbaijan, Georgia, Moldova and Ukraine) will now be charged the normal rate application fee payable by all other applicants.

7.34 This change is made to align with the arrangements already in place for visa applications. We believe the change strikes a balance between our legal obligation to reduce fees only for countries that have ratified the 1961 Social Charter, our policy that those who benefit from our services should pay for those services, and our desire to reduce the burden on the UK taxpayer.

7.35 Any extra revenue generated form this change will help fund the necessary improvements to the immigration system.

Fees for Sponsorship under the Points Based System

7.36 We have proposed holding fees for Sponsorship registration and Certificates of Sponsorship at their previous levels. These fees are paid by business, public and voluntary sector employers, and educational institutions under the Points Based System. This is in

line with our approach to set fee levels flexibly to take account of the UK's international competitiveness. This is a challenging time for the global economy; and particular pressure is being felt by UK industry at this time. These fees have not been amended from previous Regulations.

Table (E) – Fees for sponsorship applications under the Points Based System

CURRENT PRODUCTS	Current Fee 2008-09 (£)	New Fee 2009/10 (£)	Unit Cost 09/10
In UK			
Tier 2 Sponsor licence - small business	300	300	858
Tier 4 Sponsor licence	400	400	858
Tier 5 Sponsor licence	400	400	858
Tier 2 & 4 Sponsor licence - small business	400	400	858
Tier 2 & 5 Sponsor licence - small business	400	400	858
Tier 4 & 5 Sponsor licence	400	400	858
Tier 2, 4 & 5 Sponsor licence - small business	400	400	858
Tier 4 &/or Tier 5 Licence – Small Sponsor, where they currently hold Tier 2 Licence	100	100	858
Tier 5 Certificate of Sponsorship	10	10	29

Consolidation

7.37 There have been three amendments to the Immigration and Nationality (Cost Recovery Fees) Regulations 2007.

7.38 These Regulations consolidate, revoke and replace the Immigration and Nationality (Cost Recovery Fees) Regulations 2007 (S.I. 2007/936), (as amended by S.I. 2008/218, S.I. 2008/1337 and S.I. 2008/2790) to improve their legibility for all stakeholders, customers, practitioners and officials.

7.39 These Regulations include a fee for attendances made by officers overseas in relation to immigration services, to differentiate these from consular services, fees for which are in the Consular Fees Order 2008.

8 Consultation outcome

8.1 During the course of 2003/04, following full public consultation, the Home Office introduced charges for a range of immigration applications to ensure that those who use and benefit from the UK system met the cost of delivering the administrative service provided.

8.2 A further public consultation exercise on charging for immigration and nationality applications was undertaken from 30 October to 22 December 2006, 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 3000 people. The formal Government response to the public consultation was published on 7 March 2007, and is published at: http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/newchargingregime/

8.3 The consultation established the principle that from April 2007 onwards, UK Border Agency will operate a flexible pricing approach to setting fees for immigration services. This allows fees to be set in order to maintain competitiveness where needed, but also to ensure that the immigration system overall generates the revenue needed, rather than seeking to fund necessary improvements via general taxation. 87% of respondents to the consultation agreed we should set fees flexibly to take into account wider policy objectives and 79% agreed that new fees should reflect a range of factors, not only those of value to the migrant.

8.4 A further, targeted consultation exercise on fees and charges to support the Points Based System and for biometric identity documents was held from 24 October to 9 November 2007. We consulted key stakeholders, based around – but not limited to – the membership of the UK Border Agency's existing stakeholder taskforces which include representative bodies and umbrella organisations. We set out a number of proposals in a letter sent to 493 bodies and individuals which received 132 written responses. We met with 119 individuals at consultation meetings. Further details are available on request. Feedback

from this exercise was used to set fees for the new services provided to migrants and sponsors under the Points Based System in 2008.

9 Guidance

9.1 Full details of each fee and guidance to customers on how to apply under each route will be published on the UK Border Agency website.

10 Impact

10.1 A full Impact Assessment in respect of the impact of the Fund to manage the transitional impacts of migration is published at http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/newchargingregime/

10.2 An impact assessment to cover the fee increase for Tier 5 visas, Tier 5 leave to remain applications and Tier 4 visas is attached to this explanatory memorandum.

11 Regulating small business

11.1 There are no changes to the fees for sponsorship applications and hence there is no added impact to small businesses.

11.2 We have introduced a fee for technical change applications which were previously charged for as part of the work permit fee. The regulatory impact assessment for work permit fees is published at http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/newchargingregime/regulatoryimpactassessmentwp.pdf

12 Monitoring & review

12.1 We will closely monitor the impact of fees for the application and services contained in these Regulations. We review fees and charges for Immigration and Nationality applications annually, and application trends are monitored by UK Border Agency on a monthly basis. Analysis of application trends is monitored by the Cross-Government officials fees committee to ensure that fee levels generate sufficient revenue to cover UK

Border Agency delivery costs but do not adversely impact on the UK economy. We would seek to amend these fee levels were there evidence of such adverse impact.

13 Contact

13.1 Geetha Muthusamy at the Charging Programme Unit of the UK Border Agency, Tel: 0114 207 2295 or email: Geetha.Muthusamy@homeoffice.gsi.gov.uk, who can answer any queries regarding this instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
UK Border Agency (UKBA)	Impact Assessment of Fee Changes for Tier 4 and 5 of the Points Based System for Immigration	
Stage: Final	**Version: 0.5**	**Date: 02/03/2009**

Related Publications: Statements of Intent for Students and Temporary Workers under the Points Based System; Impact Assessments for Tiers 4 and 5; Tier 5 charging impact assessment

Available to view or download at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/

Contact for enquiries: Charging Policy, Vulcan House, Sheffield, PO Box 3468, S3 8WA

What is the problem under consideration? Why is government intervention necessary?

UKBA charges higher fees to migrant workers to subsidise reduced fees for Tier 4 and Tier 5 migrants. Economic circumstances means that it is harder to predict whether the numbers of migrants required to cross-subsidise these fees will apply to come to the UK. Continuing to offer the current level of subsidy carries an increased risk that UKBA may not recover costs, increasing the burden on the UK taxpayer.

What are the policy objectives and the intended effects?

The Government's general policy objectives on charging for immigration are:

- to charge fees that recover the true end-to-end costs of the system from those who use it;
- that those who benefit most should pay proportionately more, helping to reduce the burden on the taxpayer;
- that fees should be clear and straightforward, and easily understandable to our customers.

Balanced against this, the specific policy objective for Tier 4 is to maintain the UK's competitive position in the international student market so that the UK will continue to receive economic and cultural benefits from international students. The specific objective for Tier 5 is to ensure that the UK will continue to receive cultural, social, religious and international development benefits from Tier 5 migrants. Although the objective of end-to-end cost recovery will apply in aggregate, it will not, therefore, be a specific objective of Tier 4 and Tier 5.

What policy options have been considered? Please justify any preferred option.

Option 1: Do minimum, Retain current subsidised fee levels of £99 for Tier 4 visa applications and £100 for Tier 5 visas and leave to remain in the UK applications.

Option 2: Reduce the level of subsidy by setting the fee for initial entry under Tier 4 at £145, and for initial entry and leave to remain under Tier 5 at £125 (N.B. the Tier 4 fee includes a contribution to the Migration Impact Fund, which is impact assessed separately).

The preferred option is option 2 as this will help reduce the level of cross-subsidy from work routes where the numbers of migrants applying to come to the UK is uncertain, and will also reduce the burden on the taxpayer. Tier 4 and 5 fees are still set below cost, in support of specific Tier 4 and 5 policy objectives.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Regular review of volumes of applications against projected demand with assumption of fee change where necessary to reflect cost changes or significant demand impacts.

Ministerial Sign-off For Implementation Stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Phil Woolas.....Date: 10.3.2009

Summary: Analysis & Evidence

Policy Option: 2	Description: Set Tier 4 fee for initial entry at £145, and Tier 5 fee for both initial entry and leave to remain at £125

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£ 0	5
Average Annual Cost (excluding one-off)	
£ 6.9 million	

Description and scale of **key monetised costs** by 'main affected groups'. The economy will lose £32m (PV) in combined output for Tiers 4 and 5 from a reduction in the numbers of migrants coming or remaining in the UK to work and study. UKBA will lose £0.3m (PV) from a net decrease in the volume of applications as a result of fee changes.

Total Cost (PV) **£ 32.3m**

Other **key non-monetised costs** by 'main affected groups' Reduced support for fulfilling Tier 4 and 5 objectives through modest decrease in flows of students and temporary workers resulting from higher fees.

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£ 0	5
Average Annual Benefit (excluding one-off)	
£ 8.2 million	

Description and scale of **key monetised benefits** by 'main affected groups' Higher Tier 4 and Tier 5 fees will increase UKBA fee income from those that still apply to come to the UK

Total Benefit (PV) **£ 38.1m**

Other **key non-monetised benefits** by 'main affected groups' Reduction of cross subsidy from migrant work routes at a time of economic downturn when volume predictions are at risk. Reduced burden on UK taxpayer.

Key Assumptions/Sensitivities/Risks A price elasticity for the demand of higher education of -1.0 for Tier 4 Visa and Leave to Remain routes and a wage elasticity of labour supply of 0.5 for Tier 5 were used to estimate the likely decrease in numbers of applications as a consequence of the proposed fee increases. The range used below is -2.0 to 0 based on price and wage elasticities.

Price Base Year 2009	Time Period Years 5	**Net Benefit Range** (NPV) **£ -27.1m to +38.2m**	**NET BENEFIT** (NPV Best estimate) **£ +5.9m**

What is the geographic coverage of the policy/option?			Worldwide	
On what date will the policy be implemented?			April 2009	
Which organisation(s) will enforce the policy?			UK Border Agency	
What is the total annual cost of enforcement for these organisations?			£ 0	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			N/A	
What is the value of the proposed offsetting measure per year?			£ 0	
What is the value of changes in greenhouse gas emissions?			£ 0	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £ 0	Decrease of £ 0	**Net Impact**	£ 0

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

1. BACKGROUND TO TIER 4 AND TIER 5

In 2006, following an extensive public consultation, we published proposals to modernise and strengthen our immigration system by bringing in an Australian-style points system comprising five tiers:

Tier 1	Highly skilled individuals to contribute to growth and productivity.
Tier 2	Skilled workers with a job offer to fill gaps in the UK labour force.
Tier 3	Low skilled workers to fill specific temporary labour shortages.
Tier 4	Students.
Tier 5	Youth mobility and temporary workers: people coming to the UK to satisfy primarily non-economic objectives.

This Impact Assessment examines the costs and benefits of the different charging options considered for Tier 4 and Tier 5 of the Points Based System. Separate Impact Assessments considering the wider impacts of the policy for Tier 4 and Tier 5 have been published at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/.

For further information on Tier 4 and Tier 5, please refer to *'Students under the Points Based System'* and '*Temporary workers and youth mobility under the Points Based System – (Tier 5): Statement of Intent'.* Both documents are also published at the website address above.

2. BACKGROUND TO CHARGING

During the course of 2003 and 2004, the Home Office introduced charges for a range of immigration and nationality applications. The first phase of full cost recovery charging sought to ensure that those who use and benefit from the UK's immigration service met the costs of delivering the administrative service (including staffing and overhead costs) of processing applications to the point of making and conveying a decision.

The IND Review (http://www.homeoffice.gov.uk/documents/ind-review-250706/ind-review-eng) published in July 2006 stated that we should charge a fair and economic rate for our services but also one that reflects the true operational costs of the immigration system rather than just administrative costs.

As the UK Border Agency implements the various measures outlined in the Review, including the Government's plans to introduce the new Points Based System (PBS) for managed migration, we need to consider how these improved immigration services are paid for. We know that migrants contribute to our economy, and we are clear that any fees we set for migrants to come to the UK must not adversely impact on the many wider benefits that legal migration brings. But it is right to take the approach that our fees for immigration and nationality applications should better reflect the end-to-end cost of the whole immigration system, from initial application to enforcement and compliance activity.

3. RATIONALE FOR GOVERNMENT INTERVENTION

The IND Review signalled the biggest shake-up of the immigration system in its history, with a key component of the new approach being a step-change in the enforcement and compliance activity to ensure that the immigration laws are enforced.

The Government's position on this was laid out in the cross-Government enforcement strategy *'Enforcing the Rules: a strategy to ensure and enforce compliance with our immigration laws'* published on 7 March which committed around £100m extra for immigration policing, detention space, and systems to share data and intelligence on those here illegally, designed to bear down on those seeking to cheat the system and live illegally in the UK

It was agreed that there should be no increase to general taxation to fund this strategy. Resources are to be raised through a new flexible approach to the pricing of visas and immigration products where we

set fees for different services in order to maintain competitiveness in certain areas, but to ensure that the immigration system overall generates the revenue needed. This approach to pricing applies directly to Tier 4 and Tier 5, where lower fees are set in recognition of the Government's wider policy objectives. These lower fees are cross-subsidised by setting higher fees for work routes under the Points Based System (Tiers 1 and 2). The approach was fully outlined in the Government's response to its consultation on a new charging strategy for immigration and nationality fees:

http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/newchargingregime/responses.pdf

The Government's policy objectives on charging are:

- To raise an extra £100m above administrative cost recovery to fund the true end-to-end costs of the immigration system from initial application to enforcement and compliance activities;
- That those who benefit directly from our immigration system should contribute proportionately more to the costs of the system and reduce the burden on the taxpayer;
- To develop a fees model that is clear, straightforward and easily understood to our customers.

The Government's policy objective on the implementation of Tier 4 is:

- To encourage people from overseas to study or train in Britain, whilst reducing risks of abuse of the immigration system.

The Government's policy objective on the implementation of Tier 5 is:

- To ensure that the UK continues to receive the cultural, social, religious and international development benefits of particular types of temporary workers and youth mobility, whilst reducing risks of abuse of the immigration system.

4. OPTIONS

We believe that the current economic climate means that we should reduce the level of cross subsidy from work routes to students and temporary workers applying under Tiers 4 and 5. Current economic circumstances make it harder for us to to predict the numbers of migrants that will apply to come to the UK. But we need to manage the risk to UKBA's income so that the burden on the taxpayer does not increase. We have not considered increasing fees payable by UK businesses. In the current economic circumstances, UKBA wants to play its part by minimising the burden on UK businesses where possible.

We need to balance these aims against the specific policy objectives of Tier 4 and Tier 5. Consequently, we want to continue to use the fees from migrant work routes to cross subsidise the fees for Tier 4 and Tier 5 migrants. The different immigration routes and the complexity of inter-related factors involved means that there are a number of ways this could be done within our flexible approach to charging. To keep this impact assessment workable, we have narrowed this scope to considering 2 options:

Option 1: Retain current subsidised fee levels of £99 for Tier 4 visa applications and £100 for Tier 5 visas and leave to remain in the UK applications.

Option 2: Reduce the level of subsidy by setting the fee for initial entry under Tier 4 at £145, and for initial entry and leave to remain under Tier 5 at £125 (N.B. the Tier 4 fee includes a contribution to the Migration Impact Fund, which is impact assessed separately).

We believe that option 2 presents the best way of balancing the government's policy objectives on charging with specific Tier 4 and Tier 5 policy objectives, allowing UKBA to continue to provide a world class service.

5. COSTS AND BENEFITS

For Tier 4 a price elasticity of demand of -1.0 is applied to the expected non-EU student tuition fee for higher education in the UK. As a result of the fee increase application volumes are expected to decrease by 203 and 42 respectively for visa and leave to remain routes.

Under Tier 5 we assume a wage elasticity of labour supply of 0.5 is applied to the full expected wage during their stay in the UK, we expect volumes to decrease by 223 and 1 for these routes respectively for visa and leave to remain applicants in response to the rise in price.

This results in a combined decrease in output of £32 million over 5 years but an increase in government revenue from outside the UK of £38.1 million (discounted by 3.5% a year) for both Tiers 4 and 5. The NPV calculation is therefore +£5.9 million over 5 years. The NPV range of -£27.1m to £38.2m is calculated using a wage/ price elasticity range of -2.0 to 0 as indicated by available evidence in the annex to this assessment.

The key costs and benefits associated with each of the options are set out below:

Key Costs and Benefits of Tier 4 and Tier 5 Fee Increases

Key Monetised Costs

To economy

- **Reduction in fee income from deterred out of country immigration applications**: income to UK economy (UKBA) from overseas may be deterred as a result of Tier 4 and Tier 5 fee increases

  Option 2: This is estimated at £55,000 for 2009/10 and £273,000 over the next five years.

- **Reduction in output from deterred migrants**: costs of lost productive output where migrants are deterred from coming to or remaining in the UK for work or study

  Option 2: This is estimated at £6.8m for 2009/10 and £34.2m over the next five years.

Key Non- Monetised Costs

- Reduced support for fulfilling Tier 4 and 5 objectives through modest decrease in flows of students and temporary workers resulting from higher fees.
- Risks to UK economy of significant impact on volumes

Key Monetised Benefits

To economy

- **Increased fee income to the UK by reducing the level of subsidy to Tier 4 and Tier 5**; higher immigration fees will increase fee income to the UK from those that still apply to come to the UK

  Option 2: This is estimated at £8.2m for 2009/10 and £40.8m for the next five years.

Key Non- Monetised Benefits

- Greater confidence that sufficient revenue will be raised to meet the end-to-end costs of running the immigration system.
- Reducing the level of cross subsidy means less risk of increasing the burden on the taxpayer should volumes of migrant workers fall.
- Supports the charging objective that those who benefit from the immigration system should pay more towards the cost of the system.
- Increased fees are still below the cost of processing the applications, in recognition of specific Tier 4 and Tier 5 policy objectives.

Under option 2, there is a potential net benefit to the economy of £1.3m in 2009/10 and £5.9m for the next five years (present value). That is, the value of benefit from increased fee income exceeds the value of output lost from those who decide to no longer apply to come to the UK.

Table 1: Summary results of cost-benefit analysis

	OPTION 2	
	09/10	09/10-13/14
Benefits		
Net Revenue raised from fee changes for those who continue to apply:		
Tier 4	£6,417,632	£32,088,158
Tier 5	£1,742,130	£8,710,649
Combined Net Revenue (Tier 4 and Tier 5)	£8,159,761	£40,798,807
Total Benefits (PV)	**£8,159,761**	**£38,130,565**
Costs		
Revenue from net decrease in the volume of applications as a result of fee changes:		
Tier 4	-£32,363	-£161,813
Tier 5	-£22,225	-£111,124
Combined Revenue Loss (Tier 4 and Tier 5)	-£54,587	-£272,937
Output loss from net decrease in migrants coming/ remaining in the UK:		
Tier 4	-£6,174,102	-£30,870,511
Tier 5	-£673,454	-£3,367,268
Combined Output Loss (Tier 4 and Tier 5)	-£6,847,556	-£34,237,779
Total costs (PV)	**-£6,902,143**	**-£32,253,715**
Net benefit (PV)	**£1,257,618**	**£5,876,850**

6. SENSITIVITY ANALYSIS

The key unknown variables are wage elasticity of labour supply and price elasticity of demand for higher education. A literature review of empirical studies suggests a wide range of aggregate wage elasticity of labour supply from –0.1 to 1.1 and price elasticity of higher education demand from -1.0 to -2.0 (see table 1 in the annex for further details).

A lower bound price elasticity of -2.0 for Tier 4 could result in 489 and 2445 fewer applications for option 2 in 09/10 and over the next five years respectively resulting in a net loss to the economy of £6.0m and £28.0m respectively.

For Tier 5 a lower bound wage elasticity of labour supply of -1.1 was used, resulting in 494 and 2470 fewer applications in 09/10 and for the next five years respectively generating a net gain to the economy of £0.2m and £1.0m respectively.

Some empirical studies suggest negative wage elasticity of supply indicating backward sloping or backward bending labour supply curve. For a higher wage, individuals can decrease labour supply and enjoy the same level of consumption. So this implies, for a lower wage, individuals would increase labour supply. This is unlikely to be the case here, for a lower wage in the UK, migrants who are not already in the UK are more likely to just go to another country. So for the purposes of this Impact Assessment, an upper bound of zero is used for the elasticity of labour supply and higher education demand. For option 2, this gives a combined expected net benefit of £38.2m over the next five years from the gain in revenue from overseas applications (there is no output loss).

7. OTHER SPECIFIC IMPACT TESTS

Having carefully considered the remaining specific impact tests, we conclude that this fee increase will have no significant effect in those areas.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

Annexes

Table 1a: Empirical studies of the wage elasticity of labour supply

Source	Estimate of wage elasticity of labour supply*	Measure
R. E Lucas and L. A. Rapping, "Real Wages, Employment and Inflation", *Journal of Political Economy*, 77 (1969).	Short run: 1.12 – 1.13 (95% significance) Long-run: -0.07 – 0.58	Change in real wages on labour supply using US data 1929-1965
Y. Chang and S. Kim, "On the aggregate labour supply", *Federal Reserve Bank of Richmond Economic Quarterly Volume 91/1 Winter 2005.*	1.0	Aggregate labour supply elasticity
L. Osberg and S. Phipps, "Labour Supply with Quantity Constraints: Estimates from a Large Sample of Canadian Workers", *Oxford Economic Papers, New Series, Vol. 45, No. 2. (Apr., 1993), pp. 269-291.*	Between +0.1 and -0.1	Wage elasticity of labour supply in the Canadian Labour Market
P. Bingley and G. Lanot, *"The Incidence of Income Tax on Wages and Labour Supply", National Centre for Register-based Research (NCRR), Version 5.002 31 October 2000*	-0.4	Elasticity of labour supply in the Danish Labour Market

*Note that the estimated wage elasticity of labour supply includes negative values indicating backward sloping or backward bending labour supply curve. This is due to the income effect outweighing the substitution effect. For a higher wage, individuals can decrease labour supply and enjoy the same level of consumption.

Table 1b: Empirical studies of the price elasticity of demand for education

Source	Estimate of price elasticity of demand	Measure
Tuition Elasticity of the Demand for Higher Education among Current Students: A Pricing Model Glenn A. Bryan; Thomas W. Whipple The Journal of Higher Education, Vol. 66, No. 5. (Sep. - Oct., 1995), pp. 560-574.	Between -0.12 to -0.3	Elasticity of demand for HE in a small private liberal arts college in Ohio, from increases in tuition fees between $6000 to $8000
Campbell, R. and B. Siegel. "The Demand for Higher Education in the United States, 1919-1964." American Economic Review, (June, 1967), pp. 482-94.	-0.44	Aggregate demand for attendance in 4-year institutions in the US from 1927 – 63
Hight, J. "The Supply and Demand of Higher Education in the U.S.: The Public and Private Institutions Compared." Paper presented to the Econometric Society, December, 1970.	Between -1.058 and -0.6414	Used Campbell and Siegel's data and split up for public and private sectors
Hoenack, S., W. Weiler, and C. Orvis. "Cost-Related Tuition Policies and University Enrollments." mimeo., Management Information Division, University of Minnesota, 1973.	Between -1.811 to -.837	Private demand for the University of Minnesota, using longitudinal data from 1948-72.

Table 2: Estimated impact on volumes on Option 2

Application type	A	B	C	D	E
Visas	Change in fee	Annual expected wage	Expected wage over leave entitlement	% change in expected wage (A/C)	% change in volumes (D*elasticity of labour supply)
Tier 4 Visa - Lead Applicant	£26	£9,324	£27,972	0.09%	-0.09%
Tier 4 Visa - Dependent Applicant*	£26	£0	£0	0.09%	-0.09%
Tier 5 Visa - Lead Applicant	£26	£7,985	£3,992	0.67%	-0.33%
Tier 5 Visa - Dependent Applicant*	£26	£0	£0	0.67%	-0.33%
UK-based Extensions of Leave					
PBS Tier 4 Extension	£5	£9,324	£18,648	0.03%	-0.03%
PBS Tier 5 Extension	£25	£7,985	£3,992	0.64%	-0.32%

* We assume an annual expected wage of £0 for dependent applicants

Table 3a: Option 2 – Full results of cost-benefit analysis Tier 4

	2009/10	2010/11	2011/12	2012/13	2013/14	Total
Benefits (£) Net Revenue raised from fee changes and introduction of MIF for those who continue to apply	£6,417,632	£6,417,632	£6,417,632	£6,417,632	£6,417,632	**£32,088,158**
Total Benefits (PV)	£6,417,632	£6,200,716	£5,990,859	£5,788,062	£5,592,324	**£29,989,592**
Costs (£) Revenue from net decrease in the volume of applications as a result of fee changes and introduction of MIF	-£32,363	-£32,363	-£32,363	-£32,363	-£32,363	**-£161,813**
Output loss from net decrease in migrants coming/ remaining in the UK	-£6,174,102	-£6,174,102	-£6,174,102	-£6,174,102	-£6,174,102	**-£30,870,511**
Total costs (PV)	-£6,206,465	-£5,996,686	-£5,793,735	-£5,597,610	-£5,408,313	**-£29,002,809**
Net benefit (PV)	£211,167	£204,029	£197,124	£190,451	£184,011	**£986,783**

Table 3b: Option 2 – Full results of cost-benefit analysis Tier 5

	2009/10	2010/11	2011/12	2012/13	2013/14	Total
Benefits (£) Net Revenue raised from fee changes and introduction of MIF for those who continue to apply	£1,742,130	£1,742,130	£1,742,130	£1,742,130	£1,742,130	**£8,710,649**
Total Benefits (PV)	£1,742,130	£1,683,246	£1,626,278	£1,571,227	£1,518,092	**£8,140,973**
Costs (£) Revenue from net decrease in the volume of applications as a result of fee changes and introduction of MIF	-£22,225	-£22,225	-£22,225	-£22,225	-£22,225	**-£111,124**
Output loss from net decrease in migrants coming/ remaining in the UK	-£673,454	-£673,454	-£673,454	-£673,454	-£673,454	**-£3,367,268**
Total costs (PV)	-£695,678	-£672,165	-£649,416	-£627,432	-£606,214	**-£3,250,906**
Net benefit (PV)	£1,046,451	£1,011,081	£976,862	£943,794	£911,878	**£4,890,067**

Table 3c: Option 2 – Full results of cost-benefit analysis Tier 4 and 5 combined

	2009/10	2010/11	2011/12	2012/13	2013/14	Total
Benefits (£) Net Revenue raised from fee changes and introduction of MIF for those who continue to apply	£8,159,761	£8,159,761	£8,159,761	£8,159,761	£8,159,761	**£40,798,807**
Total Benefits (PV)	£8,159,761	£7,883,961	£7,617,137	£7,359,289	£7,110,416	**£38,130,565**
Costs (£) Revenue from net decrease in the volume of applications as a result of fee changes and introduction of MIF	-£54,587	-£54,587	-£54,587	-£54,587	-£54,587	**-£272,937**
Output loss from net decrease in migrants coming/ remaining in the UK	-£6,847,556	-£6,847,556	-£6,847,556	-£6,847,556	-£6,847,556	**-£34,237,779**
Total costs (PV)	-£6,902,143	-£6,668,851	-£6,443,151	-£6,225,043	-£6,014,528	**-£32,253,715**
Net benefit (PV)	£1,257,618	£1,215,111	£1,173,987	£1,134,246	£1,095,888	**£5,876,850**