EXPLANATORY MEMORANDUM TO THE IMMIGRATION AND NATIONALITY (COST RECOVERY FEES) REGULATIONS 2014

2014 No. 581

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. Purpose of the instrument

2.1 The purpose of this instrument is to specify fees for applications, services and processes relating to immigration and nationality where those fees are set at or below the administrative cost of dealing with the application or providing the process or service. They replace the Immigration and Nationality (Cost Recovery Fees) Regulations 2013 and are to come into force on 6 April 2014.

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

3.1 Most of the fees set out in the regulations represent a change from current levels. For the fees which are set at a cost recovery level, several are reduced to reflect a decrease in the estimated unit costs. For the fees set below cost recovery, most fees will increase by 4% from 2013-14 levels (but will remain below cost recovery levels). Some will reduce or remain at the same level. More detail is set out in sections 7.8 to 7.11 of this memorandum.

4. Legislative context

4.1 These regulations rely on the Immigration and Nationality (Fees) Order 2011, amended by the Immigration and Nationality (Fees) (Amendment) Order 2013 and the Immigration and Nationality (Fees) (Amendment) Order 2014, which sets out the applications, processes and services relating to immigration and nationality for which fees can be charged. These regulations will replace the Immigration and Nationality (Cost Recovery Fees) Regulations 2013, which together with the Immigration and Nationality (Fees) Regulations 2013 have specified immigration and nationality fees since 6 April 2013.

4.2 There are two sets of fees regulations because regulations setting fees are subject to a different parliamentary procedure depending on whether or not they set fees at a level above the relevant administrative costs of processing the relevant application or providing the relevant process or service. Regulations setting fees at or below cost are subject to the negative resolution procedure. Currently, those fees are to be found in the Immigration and Nationality (Cost Recovery Fees) Regulations 2013, which these regulations will replace. Regulations for fees set at a level that exceeds the administrative cost of dealing with applications or providing the relevant processes or services must be approved in draft by Parliament before they are made. Such fees are currently specified in the Immigration and Nationality (Fees)

Regulations 2013, which will also be replaced by a new set of regulations laid on 24 February 2014, which are scheduled to come into force on 6 April 2014.

5. Territorial Extent and Application

5.1 This instrument extends to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why:

7.1 These regulations specify revised fee levels. The Home Office's aim is to generate an appropriate contribution to its agreed running costs from the income generated from fees for applications, processes and services connected to immigration and nationality. By doing this, the Home Office seeks to reduce the financial obligation on UK taxpayers to pay for the running of the immigration system.

7.2 In setting the fees covered by these regulations at or below administrative costs, the Home Office is able to support wider government objectives. For example, the fees for tourist visas are set below the cost of processing an application in recognition of the importance of tourism to the UK economy. The Home Office balances this by setting fees above the administrative cost of processing under other regulations.

7.3 Where an increase in fees is proposed, the Home Office has limited fee increases to 4%, so that the extra contribution from applicants is spread across all routes. For the fees set at a cost recovery level, several are reduced to reflect a decrease in the estimated unit costs. For example, fees for the transfer of conditions, settlement visa applications for extended family members (parent, grandparent or other dependent relatives) of refugees and persons granted humanitarian protection under paragraphs 319V to 319Y or Appendix FM of the immigration rules, some travel documents issued by the Home Office and some of the applications, processes and services relating to nationality have been reduced in line with revised unit cost estimates.

7.4 The Home Office has published estimated unit costs for each application type for the financial year 2014-15. Full details are available at: https://www.gov.uk/government/publications/visa-regulations-revised-table. The unit cost is the estimated average cost to the Home Office of administering each application, service or process. These costs are provided to Parliament to ensure transparency. Although unit costs are not fixed over the course of the financial year, published unit costs enable applicants to compare fee levels with estimated unit costs.

7.5 The Home Office works to maintain a balance between the objectives of reducing the level of funding required from UK taxpayers to fund the immigration system, with that of ensuring that immigration and nationality applicants make an appropriate contribution to the funding of the system. The proposed fee increases are proportionate and fairly balance these objectives. They also remain good value when compared with equivalent routes in other comparable countries.

7.6 The tables below set out current fee levels and the new proposed fees, together with estimated unit costs, for the main products covered by these regulations:

VISA AND IN-UK PBS FEES

PRODUCTS	2013-14 Fees (£)	Estimated unit cost for 14-15 (£)	Proposed fee for 14-15 (£)
Visas			
Short term visit visa	80	115	83
Entry clearance settlement visa (Refugee Dependent Relative)	407	378	378
Transit visa (Direct Airside)	54	83	40
Visitor in transit visa (Landside)	54	83	54
Certificate of Entitlement	278	378	289
Vignette Transfer fee	105	170	109
Call out/out of hours fee (per hour)	130/hr	130/hr	130/hr
Single entry visa to replace Biometric Residence Permit (Overseas)	72	72	72
Receiving, preparing and forwarding documents on behalf of Commonwealth Countries/Overseas Territories	NA	115	115
PBS – migrants in the UK			
Tier 4 Permission to change Sponsor*	160	160	160
**For migrants that applied to the former UK Border Agency for permission to study between 31 March 2009 and 4 October 2009*			

IN UK – IMMIGRATION AND NATIONALITY FEES

PRODUCTS	2013-14 Fees (£)	Estimated unit cost 14-15 (£)	Proposed fee for 14-15 (£)	Dependant's fee (£)
Immigration products – migrants in UK				
Transfer of Conditions, Postal, Main applicant	147	107	107	107
No Time Limit, postal, main applicant	147	104	104	104
Travel Documents, Certificate of Travel (CoT), Adult	257	246	246	N/A
Travel Documents, Certificate of Travel (CoT), Child	164	157	157	N/A
Travel Documents, Convention Travel Document, (CTD), Adult	72.50	69	69	N/A
Travel Documents, Convention Travel Document, (CTD), Child	46	49	46	N/A
Enrolment of biometrics	19.20	N/A	19.20	N/A
Replacement Biometric Residence Permit	38	57	40	N/A
Work Permit Technical Changes	22	123	22	N/A
Nationality products - migrants in UK				
Renunciation of Nationality	187	144	144	N/A
Re-issued certificates of Nationality	94	85	85	N/A
Nationality right of abode	170	144	144	N/A
Nationality reconsideration fee	80	144	80	N/A
Status Letter (Nationality)	94	85	85	N/A
Non Acquisition Letter (Nationality)	94	85	85	N/A
Nationality correction to certificate	94	85	85	N/A
European Residence Document – Registration certificate	55	88	55	N/A
European Residence Document – Certifying permanent residence	55	88	55	N/A
European Residence Document – Residence card and Derivative Residence card	55	88	55	N/A
European Residence Document – Permanent Residence Card	55	88	55	N/A
Administration of 'Knowledge of Life in the UK' tests	50	N/A	50	N/A

PBS SPONSORSHIP FEES

PRODUCTS	2013-14 Fees (£)	Estimated unit cost 14-15 (£)	Proposed fee for 14-15 (£)
Tier 2 Sponsor licence - small business	515	1,476	536
Tier 4 Sponsor licence	515	1, 476	536
Tier 5 Sponsor licence	515	1,476	536
Tier 2, Tier 4 &/or Tier 5 Licence (where sponsor currently holds Tier 4 or Tier 5 licence)	1,030	1,476	940
Highly Trusted Sponsor Status	515	1,476	536
Sponsor Action Plan	1,545	1,476	1,476
Tier 5 CoS	14	14	14
Tier 4 CAS	14	14	14
CoS = Certificate of Sponsorship *CAS = Confirmation of acceptance for study*			

7.7 The following paragraphs explain the key exceptions to the general 4% increase and where a different approach has been adopted to charging.

Applications, processes and services in connection with nationality

7.8 The fees for applications, processes and services that are set at a cost recovery level have been reviewed to reflect changes in the estimated unit cost of processing. As a result, the fee for declaration of renunciation of nationality applications for people who want to give up British citizenship is reduced to £144 from £187. The fee for applications for proof of non-acquisition of British citizenship, duplicate certificates providing proof of British citizenship, confirmation of status and corrections to nationality certificates have reduced in line with unit costs, to £85 from £94. The fee for an application for a certificate of entitlement to the right of abode made in the UK is reduced to £144 from £170. The fee for an application for the reconsideration of a naturalisation or registration application is maintained at £80.

Charging for transit visas

7.9 The Home Office keeps visa regimes under constant review. Transit visas are issued when a passenger who seeks to travel via the UK on the way to another destination wishes to remain in the UK for a short period pending onward travel to another country. A new lower fee of £40, reduced from £54, is proposed for direct airside transit visas, where the holder must remain in the airside area of the airport and does not pass through UK border controls. The fee of £54 is maintained for visitor in transit visas, where the holder may temporarily enter the UK before travelling to another country. The fees for both of these visas are set below cost recovery levels. We anticipate that this will support wider government policy relating to the UK tourism and transport sectors.

Consular function fees

7.10 The Home Office has reviewed the way fees are set for providing consular functions in connection with handling documents and applications on behalf of Commonwealth countries or British Overseas Territories. The Immigration and Nationality (Cost Recovery) Regulations 2013 specifies two different fees for these services: a fee for preparing and forwarding applications and documents, and a separate fee for receiving applications. Given that both these services usually occur together, we have proposed a new single fee of £115, which represents a reduction of £5 from the amount an applicant would pay for the combined service. The Home Office believes that this approach will simplify the charge and provide greater clarity for applicants about what they can expect to pay.

Clarification on application of exchange rate provisions

7.11 The Home Office has included a provision within these regulations to make clear how the exchange rate provisions affect fees charged for applications made overseas. The rate of exchange must be based on that prevailing on the date and at the place that the fee is paid, but can be adjusted by the Secretary of State. This is a technical provision, intended to remove the risk of fluctuating exchange rates having an adverse effect on fees income. The rates that apply are specified locally by the Foreign and Commonwealth Office. The provision reflects current practice, and is included in these regulations for clarity and transparency.

8. Consultation outcome

8.1 The Home Office conducted a targeted public consultation on how the Home Office's charging strategy works in practice to help inform and shape the approach to charging in the future. Between 12 November and 3 December 2013 a range of stakeholders were approached, including education sector representatives, businesses, immigration advisors, professional bodies, legal practitioners, aviation and hospitality trade associations and travel and retail groups. 78 responses were received. The responses have been analysed and where appropriate, reflected in the proposals that have formed these regulations. Responses were broadly supportive of the proposals, and the government response to the consultation has been published on the government consultation website: https://www.gov.uk/government/publications?publication_filter_option=consultations

8.2 Prior to this, the former UK Border Agency ran a full public consultation on 'Charging for Immigration and Visa Applications' between 1 September 2009 and 1 January 2010. Over 90% of respondents agreed that immigration and nationality fees should be set flexibly by taking into account wider policy objectives, such as attracting specific groups of migrants that are beneficial to the UK. The formal government response to the consultation on 14 January 2010 was published at http://webarchive.nationalarchives.gov.uk/20100422120657/http:/www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/charging09/.

9. Guidance

9.1 The Home Office has announced details of the new fee levels and their commencement dates to Parliament in a Written Ministerial Statement. Full details of each fee and guidance to general members of the public on how to apply under each route will be made available on the Home Office website.

10. Impact

10.1 The impact on business, charities and voluntary bodies is estimated to be zero net cost as explained in the full impact assessment attached as an annex to this explanatory memorandum, which will also be published at www.legislation.gov.uk.

10.2 The impact on the public sector is explained in Annex 5 of the impact assessment.

11. Regulating small business

11.1 The legislation applies to small businesses who act as sponsors for migrants coming to the UK under the points-based system.

11.2 To minimise the impact of the requirements on firms employing up to 50 people, we have maintained our approach of charging a lower fee for small businesses who apply for either the standard sponsor licence included within these regulations or the optional premium sponsor services set in separate regulations.

12. Monitoring & review

12.1 The Home Office reviews fees and charges for immigration and nationality applications annually. It monitors application volumes and trends on a monthly basis. Officials from all relevant government departments consider proposals to amend fee levels to ensure they do not adversely impact on the UK economy.

13. Contact

13.1 Shola Akinyamoju at the Home Office Finance and Estates Directorate, Tel: 0208 196 0809 or email: Shola.Akinyamoju@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.