EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND NATIONALITY (FEES) (AMENDMENT) (NO. 3) REGULATIONS 2020

2020 No. 736

1. Introduction

1.1 This explanatory memorandum has been prepared by The Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Immigration and Nationality (Fees) Regulations 2018 ("the 2018 Regulations"). They provide for reduced fees for applications for entry clearance to enter the United Kingdom and the Isle of Man and for limited leave to remain in the United Kingdom. These reduced fees apply to individuals who are eligible for a "Health and Care Visa" and who are applying under the Tier 2 (General) immigration route under the United Kingdom immigration rules or the Worker Migrant route under the Isle of Man immigration rules. These Regulations also provide for reduced fees for applications by dependants. Health and Care Visas are available to qualified doctors, nurses and allied health professionals working for an eligible organisation, as well as those working in eligible occupations in social care for an eligible organisation or business. The eligibility criteria for a Health and Care Visa are set out in "Tier 2 of the Points Based System - Policy Guidance" for the United Kingdom and in the "Confirmation of Employment Guidance" for the Isle of Man.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the same as the provisions of the 2018 Regulations which it amends. The amendments therefore extend to England and Wales, Scotland and Northern Ireland; and the amendments made by regulation 5 also extend to the Isle of Man.

4.2 The territorial application of this instrument is the same as its extent.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 This instrument supports the introduction of the respective Health and Care Visas of the United Kingdom and Isle of Man.

6.2 In the case of the United Kingdom, applicants for Health and Care Visas and their dependants are to be provided with fast-track entry and support of a dedicated team in processing visa applications and they will be exempt from paying the Immigration Health Surcharge. Individuals who are qualified doctors, nurses, allied health professionals working for an eligible organisation or those working in eligible social care occupations can apply under the Tier 2 (General) immigration route to work. The Tier 2 (General) route is provided for by the UK immigration rules. The 2018 Regulations specify the fees payable by applicants for entry clearance and limited leave to remain as a Tier 2 (General) Migrant and their dependants. These Regulations provide for those fees to be reduced for applicants who are eligible for a Health and Care Visa and for their dependants. These Regulations also provide that dependants of those Tier 2 migrants working in a role that would, had Health and Care Visas been available, have been eligible for a Health and Care Visa are entitled to reduced fees, if these dependants apply to join.

6.3 In the case of the Isle of Man's Health and Care Visa, applicants are to be provided with fast-track entry and priority support in processing their visa applications. Individuals who are qualified doctors, nurses and allied health and care professionals can apply under the Worker Migrant route to come to the Isle of Man to work directly for the National Health Service (NHS) of the Isle of Man or for an organisation or business in the Isle of Man which provides services commissioned by the Isle of Man NHS or for the Department of Health and Social Care of the Isle of Man. The Worker Migrant route is provided for by the Isle of Man immigration rules. The 2018 Regulations specify the fees payable by applicants for entry clearance to enter the Isle of Man as a Worker Migrant and their dependants. These Regulations provide for those fees to be reduced for applicants eligible for a Health and Care Visa and for their dependants. These Regulations also provide that dependants of those Worker Migrants working in a role that, had Health and Care Visas been available, would have been eligible for a Health and Care Visa are entitled to reduced fees, if these dependants apply to join.

7. Policy background

What is being done and why?

The United Kingdom

7.1 The UK Government has committed to introducing a Health and Care Visa in recognition of the valuable contribution made to the NHS and wider health and social care sector by overseas health professionals. The Health and Care Visa will be available to qualified doctors, nurses, allied health professionals working for an eligible organisation and those working in eligible social care occupations, who have been trained to a recognised standard and who have good working English. Applicants will be offered fast-track entry and support of a dedicated team in processing visa applications to come to or stay further in the UK with their families and they and their dependant family members will also be exempt from paying the Immigration and Health surcharge. By virtue of these Regulations, the application

fees that would otherwise be payable for entry clearance and limited leave to remain will be reduced.

7.2 A Health and Care Visa will be available within the existing Tier 2 (General) immigration route for those with a job offer in a specified qualifying role, working directly for the NHS, or for a defined eligible organisation or business. The Health and Care Visas are provided for by Part A of the Tier 2 policy guidance in the Home Office document entitled "Tier 2 of the Points Based System – Policy Guidance" ("the Guidance"). Part A of the Guidance sets out the eligibility criteria both for the specified employment role and for the defined organisation or business operating in the health and social care sector to qualify under the Health and Care Visa. The Guidance is accessible via www.gov.uk, and copies can be obtained from the Home Office, Fees and Income Planning Team, 8th Floor, Southern House, Wellesley Grove, Croydon, CR0 1XG.

7.3 The qualifying job roles are identified by the Standard Occupational Classification Codes (SOC Codes) listed in Part A of the guidance to be available on the web link stated above. The NHS and other qualifying employers in the health and care sector are required to issue a Certificate of Sponsorship (CoS) for a job offer they make to an individual who requires a visa to work in the UK. A CoS is an on-line document generated by the employers holding a sponsor license issued by the Home Office to sponsor the applicants. This will include information on an individual, their job role specifying a SOC Code and how that individual's job role meets the eligibility criteria for a Health and Care Visa. The SoC Codes are based on the system, designed by the Office for National Statistics and used by the Home Office under Tier 2 route, to identify how the individual's job role meets the wider eligibility rules for a Tier 2 General visa. Employers are also required to inform the individual of their eligibility for a Health and Care Visa. This individual will still be required to meet all other criteria of the Tier 2 route.

7.4 The current Tier 2 application fees are based upon the length of leave that may be granted and if the applicant's job role (identified by a SOC code) is on the current list of shortage occupations. The shortage occupation list is set out at Appendix K of the UK immigration rules, recognising that these job roles are in national shortage and it is beneficial to the UK to encourage applicants who are qualified to work in these roles. These Regulations provide for the current fees for applications for entry clearance and limited leave to remain as a Tier 2 (General) Migrant to be reduced by specified amounts where the Certificate of Sponsorship confirms the applicant's eligibility for a Health and Care Visa. The fees for dependant family members of such applicants are also reduced by the same amounts based upon a Certificate of Sponsorship confirming eligibility of Health and Care visa. Those dependants who apply later to join the Tier 2 migrants, whom they rely upon and who are working in a role that, had Health and Care Visas been available, would have been eligible for a Health and Care Visa, on the basis of a letter or an email issued by the employer confirming the eligibility of the said Tier 2 migrants for a Health and Care Visa are also entitled to reduced fees. The reduced fees are as stated below –

Application fees for entry clearance to enter the United Kingdom

	For three years or less	**For more than three years**
Tier 2 General Fee for Health and Care Visa	Current fee of £610 to be reduced by £378	Current fee of £1,220 to be reduced by £756
Tier 2 General Fee for Health and Care Visa, if the Certificate of Sponsorship states a job role as a Shortage Occupation	Current fee of £464 to be reduced by 50% (i.e. by £232)	Current fee of £928 to be reduced by 50% (i.e. by £464)

Application fees for leave to remain in the United Kingdom

	For three years or less	**For more than three years**
Tier 2 General Fee for Health and Care Visa	Current fee of £704 to be reduced by £472	Current fee of £1,408 to be reduced by £944
Tier 2 General Fee for Health and Care Visa, if the Certificate of Sponsorship states a job role as a Shortage Occupation	Current fee of £464 to be reduced by 50% (i.e. by £232)	Current fee of £928 to be reduced by 50% (i.e. by £464)

7.5 The Regulations also provide for the reduced fees for a main applicant's application to be further reduced by £55 where the applicant is a national of a state which has ratified the European Social Charter agreed by the Council of Europe at Turin on 18th October 1961 (ETS No. 035) (a "CESC national"). The 2018 Regulations currently provide for a reduction of fees for applications by CESC nationals for entry clearance or limited leave to remain as a Tier 2 Migrant.

The Isle of Man

7.6 The Government of the Isle of Man is also introducing a Health and Care Visa, which is similar to that introduced for the UK. The Health and Care Visa will be available to qualified doctors, nurses and other health and care professionals with a job offer from the Isle of Man NHS or from an organisation or business which provides services commissioned by the Isle of man NHS or from the Isle of Man's Department of Health and Social Care, who have been trained at a recognised standard and who have good working English. It provides fast-track entry to the Isle of Man for qualifying health and care professionals and their families. There is priority support for processing Health and Care Visa applications. By virtue of these Regulations, the application fees that would otherwise be payable for entry clearance applications will be reduced.

7.7 Health and Care Visas will be available to individuals who are applying under the Isle of Man "Worker Migrant" route and who will be working directly for the National Health Service of the Isle of Man, or for an organisation or business which provides services commissioned by the Isle of Man NHS or for the Department of Health and

Care of the Isle of Man. The Health and Care Visas are provided for by Section 4 of the Confirmation of Employment guidance published by the Isle of Man government on their website www.gov.im which sets out the eligibility criteria. Copies of the guidance can be obtained from the Passport, Immigration and Nationality Office of the Isle of Man, Ground Floor, Government Office, Buck's Road, Douglas, IM1 3PU.

7.8 The qualifying job roles are identified by Standard Occupational Classification codes (SOC Codes) listed in Section 4 of that guidance. The Isle of Man NHS and other qualifying employers are required to apply for a Confirmation of Employment (CoE) and state how the prospective Worker Migrant meets the eligibility criteria for a Health and Care Visa. A CoE is a document issued by the Isle of Man Government to employers for further issuing to prospective Worker Migrants. This document states the prospective Worker Migrant's job role and associated SOC Code and confirms their eligibility for an Isle of Man Health and Care Visa. The Isle of Man uses the same SOC Code system used in the United Kingdom to identify the individual's job role meets the wider eligibility requirements for a Worker Migrant visa. The employers are also required to inform the prospective Worker Migrant of their eligibility for an Isle of Man Health and Care Visa and those prospective Worker Migrants will still be required to meet all other criteria of Worker Migrant route.

7.9 These Regulations provide for the current Worker Migrant fee of £610 for applications for entry clearance to enter the Isle of Man to be reduced by £378 where the CoE confirms the applicant's eligibility for a Health and Care Visa. The fee for applications for entry clearance by dependant family members of such applicants is also reduced by the same amount based on a CoE confirming eligibility of Health and Care Visa. Those dependants who apply later to join the Worker Migrants, whom they rely upon and who are working in a role that, had Health and Care Visas been available, would have been eligible for a Health and Care Visa, on the basis of a letter or an email issued by the employer confirming the eligibility of the said Worker Migrants for a Health and Care Visa are also entitled to reduced fees. The Isle of Man government makes its own legislation in respect of fees for leave to remain in the Isle of Man.

7.10 The Regulations also provide for the reduced fee for a main applicant's application to be further reduced where the applicant is a CESC national. The 2018 Regulations currently provide for a reduction of fees for applications by CESC nationals for entry clearance as a Worker Migrant.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 The Immigration and Nationality (Fees) Regulations are consolidated periodically.

10. Consultation outcome

10.1 There has been no public consultation on the above changes.

10.2 The Home Office conducted a targeted public consultation in November and December 2013 on how its charging strategy works in practice, to help inform and

shape the approach to charging in the future. Responses to this consultation were analysed and continue to be reflected in this instrument.

11. Guidance

11.1 Home Office guidance for staff will be updated to reflect these changes.

11.2 Information and guidance for members of the public will also be published when this instrument is laid in parliament.

12. Impact

12.1 The main impact on the public sector is the foregone visa fee revenue that results from introducing a reduced fee for applications made under the Tier 2 (General) and Worker Migrant immigration routes where the main applicants are eligible for a Health and Care Visa. The foregone fee revenue over the five years from the implementation of the policy is estimated to be around £134 million.

12.2 Despite the net cost, the Governments of the UK and Isle of Man are committed to introducing a route to attract medical and health and care professionals as they play a vital role in supporting the health and well-being of the population.

12.3 There is unlikely to be a significant impact on business, charities or voluntary bodies. The employer will be required to include an explanation in the Certificate of Sponsorship or Confirmation of Employment which sets out how the employee is eligible for a Health and Care Visa. The employer will also be responsible for informing the applicant that they are eligible so that the applicant can correctly complete the visa application form and for providing a letter to dependant applicants in cases where the main applicant migrated before the introduction of the Health and Care visa but would have been eligible for this visa. There is not expected to be a significant cost associated to these additional requirements.

12.4 A full Impact Assessment (IA) is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the fees are kept under regular review.

14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Kevin Foster MP, Parliamentary Under Secretary (Minister for Future Borders and Immigration) at the Home Office has made the following statement. “It is not appropriate in the circumstances to make provision for review. Fees are kept under regular review and I am satisfied that these regulations do not impact on small businesses”.

15. Contact

15.1 Milind Deshpande at the Home Office Telephone: 07776 808 029 or email. Milind.Deshpande@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Simon Cubley, Deputy Director for the Border, Immigration and Citizenship Strategy Team at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kevin Foster MP, Parliamentary Under Secretary (Minister for Future Borders and Immigration) at the Home Office can confirm that this Explanatory Memorandum meets the required standard.