EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND NATIONALITY (FEES) (AMENDMENT) REGULATIONS 2015

2015 No. 1424

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

The purpose of this negative instrument is to correct an administrative error which occurred in relation to the Immigration and Nationality Fees Regulations 2015 (SI 2015/768).

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

3.1 The Home Office regrets that it has not been possible to give the usual 21 days' notice before this instrument takes effect. The instrument is required to correct an administrative error which has resulted in the Home Office being unable to charge for certain applications where its stated policy, explained in the Explanatory Memorandum to SI 2015/768, para. 7.10, was for a fee to be charged.

3.2 On discovery of the error, the Home Office has put in place processes to manage all applications where a fee was incorrectly requested and where refunds must now be issued and/or cases decided without a fee.

3.3 Given the need to minimise the adverse impact on Home Office income, and to limit the cost of the extra administrative work required, it is necessary to amend the Regulations as soon as possible. A wait of 21 days would result in the further loss of a significant amount of income.

4. Legislative context

4.1 This is a straightforward amendment to SI 2015/768.

5. Territorial extent and application

5.1 This instrument extends to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What we are doing and why:

7.1 The Home Office aims to generate an appropriate contribution to its agreed running costs from the income generated from visa, nationality and immigration applications.

7.2 Prior to 6 April 2015, the Home Office reviewed its policy on further leave applications made by failed asylum seekers, who do not need international protection but want to extend or renew leave granted for other reasons, for example, leave for family or private life or discretionary leave granted outside the Immigration Rules.

7.3 This change required such applicants to pay a fee for their application in the same way that other migrants are charged for their applications. The change was approved by Parliament and explained in the Explanatory Memorandum to the SI. However, the policy change was not reflected in the copy of the Regulations that were made due to an administrative oversight.

8. Consultation outcome

8.1 This amendment does not require further consultation beyond that explained in the Explanatory Memorandum to SI 2015/768.

9. Guidance

9.1 Full details of the relevant fee and guidance to general members of the public on how to apply is available on the GOV.UK website.

9.2 Applicants that have paid a fee between 6 April 2015 and the coming into force of this instrument will be contacted directly and a refund arranged.

10. Impact

10.1 The impact on businesses, charities and voluntary bodies is as explained in the Explanatory Memorandum to SI 2015/768

11. Regulating small business

11.1 This change will not impact upon small businesses.

12. Monitoring & review

12.1 The Home Office will closely monitor the impact of fees for the applications affected by these Regulations. The Home Office reviews fees and charges for immigration and nationality applications annually. The Home Office monitors application trends on a monthly basis and 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 Annie Wattam at the Home Office, Fees and Income Planning, Financial Planning Unit, Tel: 0114 207 2290 or email: Annie.Wattam@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.