EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND NATIONALITY (FEES) REGULATIONS 2016

2016 No. 226

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of this negative instrument is to specify fees for functions in connection with immigration and nationality.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These Regulations contain fees, some of which have been reduced, frozen or increased above the rate of inflation. More detail is set out in section 7 of this memorandum.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 These Regulations set out the fee levels for immigration and nationality applications and services. The fees are set within the limits contained in the enabling Immigration and Nationality (Fees) Order 2016, which was subject to affirmative resolution and made on 12 February 2016.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom, except for the provision in Schedule 9 which, in addition to the United Kingdom, also extends to the Isle of Man.

5.2 The territorial application of this instrument is the whole 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 is being done and why

7.1 In the Government's 2015 Spending Review, the Home Office set out an objective that the border, immigration and citizenship (BIC) system will become self-funded by

2019-2020, thus relieving the burden on the taxpayer. The Home Office plans to achieve this by increasing income and investing in streamlined and automated processes to reduce costs over the next four years.

7.2 The fees set out in this instrument are the first step towards achieving self-funding. The routes most strongly associated with economic growth (students, workers and visitors) will increase by 2% (rounded to the nearest pound), reflecting the Home Office's objective to protect routes most associated with economic growth from more significant fee increases.

7.3 Fees for settlement, nationality and residence routes will increase by up to 25%, as will most fees for optional premium services. Fees relating to sponsorship will be held at existing rates.

7.4 It is estimated that these increases will raise an additional £100m of income in 2016-17.

7.5 Where fees in this instrument are set above cost recovery, this is a reflection of either the value of the benefits and entitlements conferred by a successful application or a contribution to the cost of providing other immigration functions, or both. The available benefits and entitlements may, depending on the application, include:

- unrestricted access to the UK labour market;
- the ability to bring dependants to the UK who also have unrestricted access to the UK labour market;
- unrestricted access to state education for their dependants;
- the option, at a later date, to apply for settlement in the UK.

7.6 For a small number of application routes we are making other changes, either to improve consistency within the fees framework, or to reflect changed unit costs. These include increases to the fee for a reconsideration of a nationality application that has been refused; reductions to fees for travel documents for stateless adults; and children, and fee freezes for European residence documents.

7.7 The Home Office will publish indicative unit costs for the 2016-17 financial year. The unit cost is the estimated average cost to the Home Office of processing each application. This information is provided to Parliament to ensure transparency. Although they are not fixed over the financial year, published unit costs enable applicants to see which fees are set over or under cost and by how much.

7.8 A table setting out all the current fee levels, proposed new fee levels and estimated unit costs for 2016-17 will be published on www.gov.uk.

Consolidation

7.9 These Regulations do not amend any existing Regulations and therefore consolidation is unnecessary.

8. Consultation outcome

8.1 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. The responses were analysed and reflected in the proposals set out in these Regulations.

8.2 The consultation document was made available to the general public on the Home Office website. Key interest groups from professional bodies, legal practitioners, education sector representatives, aviation and hospitality trade associations and travel and retail groups were also notified of the consultation and a number of face-to-face meetings took place during the consultation period.

8.3 Responses to the consultation were almost universally constructive:

- Stakeholders expressed appreciation for the opportunity to provide feedback.
- Positive feedback was provided where respondents felt the current charging strategy was successful, such as the availability of and charging at above-cost for premium services.

8.4 Some respondents emphasised the need to ensure that changes to fees were not detrimental to the Governments aim of attracting the 'brightest and best' to work and study in the UK. The Home Office has sought to address this in these Regulations by limiting fee increases for student, worker and visitor applications to 2% in 2016-17.

8.5 The government response to the consultation was published on the gov.uk website at https://www.gov.uk/government/consultations/fees-and-charging-immigration-and-visas-consultation.

9. Guidance

9.1 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 www.gov.uk. The Home Office guidance to staff will be updated to reflect these changes.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument. This is because an Impact Assessment was prepared for the Immigration and Nationality (Fees) Order 2016, which assessed the impact of the fee levels set out in these Regulations. There is no additional impact on business, charities or voluntary bodies in these Regulations because sponsor licence fees, which apply to these sectors, are not being adjusted through these Regulations. Therefore, these fees will remain at their existing levels.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to charge a lower fee for an application for a sponsor licence where the applicant is a small or charitable sponsor than the fee payable by non-small or charitable sponsors.

11.3 The basis for the final decision on what action to take to assist small businesses is not addressed in the Impact Assessment to the Immigration and Nationality (Fees) Order 2016 because there has been no change in approach to small businesses through these Regulations. The Impact Assessment set out that there was no additional impact to businesses as there will be no changes to sponsor fees in these Regulations.

12. Monitoring & review

12.1 The Home Office will closely monitor the impact of fees for the applications and services contained in these Regulations. The Home Office reviews fees and charges for immigration and nationality applications annually. The Home Office also monitors application trends 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, Telephone: 0114 208 2290 or email: Annie.Wattam@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.