Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Immigration and Nationality (Fees) Order 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2016 No. 177

IMMIGRATION
NATIONALITY

The Immigration and Nationality (Fees) Order 2016

Made - - - - 11th February 2016

Coming into force in accordance with article 1

The Secretary of State makes the following Order with the consent of the Treasury [F1], in exercise of the powers conferred by sections 68(1) to (6) and (12), 69(2) and 74(8) of the Immigration Act 2014 [F2].

In accordance with section 74(2)(j) of that Act, a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

F1 In pursuance of section 69(1) of the Immigration Act 2014 (c. 22).

F2 2014 c. 22. See definition of "specified" in section 68(12) of that Act. Sections 68 and 69 of that Act were extended with modifications to the Isle of Man, for the purposes of functions exercised outside the Isle of Man only, by articles 22 and 23 of the Immigration (Isle of Man) Order 2008 S.I. 2008/680; as amended by S.I. 2015/1765.

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Immigration and Nationality (Fees) Order 2016.

(2) It comes into force on the day after the day on which it is made.

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

[[F3](4) Articles 1 to 5A extend to the Isle of Man for the purpose of issuing entry clearance to enter the Isle of Man, and for the purpose of any function incidental to the issue of such entry clearance.**]**

[[F4](5) Articles 1 to 5 extend to the Bailiwick of Guernsey and the Bailiwick of Jersey, but only for the purpose of granting entry clearance to enter the bailiwick concerned.**]**

[[F5](6) Article 9A extends to the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man but only where the services described in that article are provided in relation to the consideration of an application or potential application for entry clearance to enter the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man respectively.**]**

F3 Art. 1(4) substituted (15.3.2017) by The Immigration and Nationality (Fees) (Amendment) Order 2017 (S.I. 2017/440), arts. 1, **2(2)(a)**

F4 Art. 1(5) inserted (15.3.2017) by The Immigration and Nationality (Fees) (Amendment) Order 2017 (S.I. 2017/440), arts. 1, **2(2)(b)**

F5 Art. 1(6) inserted (9.3.2018) by The Immigration and Nationality (Fees) (Amendment) Order 2018 (S.I. 2018/329), arts. 1, **2(2)**

2. In this Order—

"the 1971 Act" means the Immigration Act 1971 [F6];

"the 1981 Act" means the British Nationality Act 1981 [F7];

"the 1997 Act" means the British Nationality (Hong Kong) Act 1997 [F8];

"the 1986 Order" means the Hong Kong (British Nationality) Order 1986 [F9];

"the 2008 Regulations" means the Immigration (Biometric Registration) Regulations 2008 [F10];

"approval letter" means a letter signifying approval to an application or request, from a body or a panel of individuals designated by the Secretary of State as competent to issue such letters in respect of a person making or intending to make an application for entry clearance, leave to enter or leave to remain in the United Kingdom;

"basic service" has the same meaning as provided in regulation 3 of the Immigration Control (Charges) (Basic Service) Regulations 2003 [F11];

"biometric immigration document" has the same meaning as provided in section 5 of the UK Borders Act 2007 [F12];

"biometric information" means information about a person's external physical characteristics;

"British citizen" means a person who has that status in accordance with the provisions of the 1981 Act, the 1997 Act or the British Overseas Territories Act 2002 [F13];

"British National (Overseas)" means a person who has that status in accordance with the provisions of the 1986 Order;

"British overseas citizen" means a person who has that status in accordance with the provisions of the 1981 Act or the 1986 Order;

"British overseas territories citizen" means a person who has that status in accordance with the provisions of the 1981 Act;

"British protected person" means a person who has that status in accordance with the provisions of the British Protectorates, Protected States and Protected Persons Order 1982 [F14];

"British subject" means a person who has that status in accordance with the provisions of the 1981 Act;

"certificate of registration or naturalisation" means a certificate of registration or naturalisation issued under the 1981 Act;

[F15"certificate of sponsorship"—

(a) in respect of the United Kingdom means an authorisation, allocated by the Secretary of State to a sponsor and issued to a person by that sponsor, in respect of an application, or potential application, for entry clearance, leave to enter or leave to remain in the United Kingdom as a sponsored worker;

(b) in respect of the Isle of Man means an authorisation, allocated by or on behalf of the Lieutenant-Governor of the Isle of Man to a sponsor and issued to a person by that

sponsor, in respect of an application, or potential application, for entry clearance to enter the Isle of Man as a sponsored worker;**]**

"confirmation of acceptance for studies" means an authorisation, allocated by the Secretary of State to a sponsor and issued to a person by that sponsor, in respect of an application, or potential application, for entry clearance, leave to enter or leave to remain in the United Kingdom as a student;

"consular function" means any of the functions described in Article 5 of the Vienna Convention on Consular Relations set out in Schedule 1 to the Consular Relations Act 1968 **F16** or functions in the United Kingdom which correspond with those functions;

"consular premises" has the same meaning as provided in Article 1(1)(j) of the Vienna Convention on Consular Relations set out in Schedule 1 to the Consular Relations Act 1968;

"contractor" means a person with whom the Secretary of State has entered into a contract, by which the person agrees to provide certain services in connection with immigration or nationality;

F17 ...

"Electronic Visa Waiver" means a document authorising a person **[F18**to travel to the United Kingdom for the purpose of entry where that person, in the absence of such a document, would require entry clearance to undertake that travel**]**;

"entry clearance" –

(a) subject to **[F19**sub-paragraphs (b) to (d)**]**, has the same meaning as provided in section 33(1) of the 1971 Act **F20** ;

(b) in relation to the Isle of Man has the same meaning as provided in section 33(1) of the 1971 Act as extended to the Isle of Man **F21** ;

(c) **[F22**in relation to the Bailiwick of Guernsey has the same meaning as provided in section 33(1) of the 1971 Act as extended to the Bailiwick of Guernsey;

(d) in relation to the Bailiwick of Jersey has the same meaning as provided in section 33(1) of the 1971 Act as extended to the Bailiwick of Jersey**]**

"European residence document" means a document issued as evidence that a person is entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or any provision made under section 2(2) of the European Communities Act 1972 **F23**;

"the former nationality Acts" has the same meaning as provided in section 50(1) of the 1981 Act;

"immigration decision letter" means a letter or other document which records a decision in connection with immigration or nationality, but does not provide evidence of leave to enter or leave to remain in the United Kingdom;

"immigration employment document" means a work permit, or any other document which relates to employment and is issued for the purposes of the immigration rules or in connection with leave to enter or remain in the United Kingdom;

"the immigration rules" means rules made under section 3(2) of the 1971 Act;

"leave to enter the United Kingdom" and "leave to remain in the United Kingdom" mean respectively leave to enter the United Kingdom and leave to remain in the United Kingdom given in accordance with the provisions of the 1971 Act or the immigration rules and "leave to enter or leave to remain in the United Kingdom" is to be construed accordingly;

"limited leave" and "indefinite leave" respectively have the same meanings as provided in section 33(1) of the 1971 Act;

"premium services" means optional premium services in connection with immigration or nationality applications;

"registered traveller service" means the discretionary service offered by the Home Office enabling the expedited entry of persons registered on the scheme into the United Kingdom, or the transit of such persons through the United Kingdom;

"right of abode" has the same meaning as provided in section 2 of the 1971 Act [F24];

[[F25]"sponsor"—

(a) in respect of the United Kingdom means a person licensed by the Secretary of State to issue certificates of sponsorship, or confirmations of acceptance for studies, or both;

(b) in respect of the Isle of Man means a person licensed by or on behalf of the Lieutenant-Governor of the Isle of Man to issue certificates of sponsorship;**]**

"sponsor licence" means a licence granted by the Secretary of State to a person who, by virtue of such a grant, is licensed as a sponsor;

[[F26]"sponsored worker"—

(a) in respect of the United Kingdom means a person seeking entry clearance, leave to enter or leave to remain in the United Kingdom for the purposes of employment (whether paid or unpaid) or some other economic activity, where that person is required by the immigration rules to obtain a certificate of sponsorship;

(b) in respect of the Isle of Man means a person seeking entry clearance to the Isle of Man for the purposes of employment (whether paid or unpaid) or some other economic activity, where that person is required by the Isle of Man immigration rules to obtain a certificate of sponsorship;**]**

"transfer of conditions" means the fixing of a stamp, sticker or other attachment on a passport or other document issued to an applicant, which indicates that a person has been given leave to enter or remain in the United Kingdom;

"transit visa" means a document authorising the holder to remain within a port, without passing through immigration control, pending departure from the United Kingdom from that port;

"travel document" means a document which is not a passport, allowing a person (or, if the person has died, the body of that person) to travel outside the United Kingdom, and is issued by the Home Office to persons who are either refugees, or stateless, or who cannot obtain or use a passport issued by their own country;

[[F27]"unsponsored worker"—

(a) in respect of the United Kingdom means a person seeking entry clearance, leave to enter or leave to remain in the United Kingdom for the purposes of employment (whether paid or unpaid) or some other economic activity, where that person is not required by the immigration rules to obtain a certificate of sponsorship;

(b) in respect of the Isle of Man means a person seeking entry clearance to enter the Isle of Man for the purposes of employment (whether paid or unpaid) or some other economic activity, where that person is not required by the Isle of Man immigration rules to obtain a certificate of sponsorship;**]**

[[F28]"web-chat facility" means an internet-based facility enabling direct communication in real-time between an advisor and an applicant or their representative**]**

F6 1971 c. 77.
F7 1981 c. 61.
F8 1997 c. 20.
F9 S.I. 1986/948.

F10 S.I. 2008/3048, as amended by S.I. 2009/819, **S.I**. 2012/594 and S.I. 2015/433.
F11 S.I. 2003/1502.
F12 2007 c. 30.
F13 2002 c. 8.
F14 S.I. 1982/1070.
F15 Words in art. 2 substituted (9.3.2018) by The Immigration and Nationality (Fees) (Amendment) Order 2018 (S.I. 2018/329), arts. 1, **2(3)(a)**
F16 1968 c. 18.
F17 Words in art. 2 omitted (15.3.2017) by virtue of The Immigration and Nationality (Fees) (Amendment) Order 2017 (S.I. 2017/440), arts. 1, **2(3)(a)**
F18 Words in art. 2 substituted (15.3.2017) by The Immigration and Nationality (Fees) (Amendment) Order 2017 (S.I. 2017/440), arts. 1, **2(3)(b)**
F19 Words in art. 2 substituted (15.3.2017) by The Immigration and Nationality (Fees) (Amendment) Order 2017 (S.I. 2017/440), arts. 1, **2(3)(c)(i)**
F20 The definition of "entry clearance" in section 33(1) was amended by section 39(6) of and paragraph 2 of Schedule 4 to the British Nationality Act 1981 (c. 61) ("the 1981 Act") and paragraph 5 of the Schedule to the Immigration Act 1988 (c. 14).
F21 The definition of "entry clearance" in section 33(1) was extended with modifications to the Isle of Man by the Immigration (Isle of Man) Order 2008, S.I. 2008/680; as amended by S.I. 2015/1765; there are other amendments to that Order but none are relevant for the present purposes.
F22 Words in art. 2 inserted (15.3.2017) by The Immigration and Nationality (Fees) (Amendment) Order 2017 (S.I. 2017/440), arts. 1, **2(3)(c)(ii)**
F23 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of Schedule 1 to, the European Union (Amendment) Act 2008 (c. 7).
F24 1971 c. 77; section 2 was amended by section 39(2) of the 1981 Act.
F25 Words in art. 2 substituted (9.3.2018) by The Immigration and Nationality (Fees) (Amendment) Order 2018 (S.I. 2018/329), arts. 1, **2(3)(b)**
F26 Words in art. 2 substituted (9.3.2018) by The Immigration and Nationality (Fees) (Amendment) Order 2018 (S.I. 2018/329), arts. 1, **2(3)(c)**
F27 Words in art. 2 substituted (9.3.2018) by The Immigration and Nationality (Fees) (Amendment) Order 2018 (S.I. 2018/329), arts. 1, **2(3)(d)**
F28 Words in art. 2 inserted (15.3.2017) by The Immigration and Nationality (Fees) (Amendment) Order 2017 (S.I. 2017/440), arts. 1, **2(3)(d)**

Requirement to pay a fee in respect of the exercise of a function in connection with immigration or nationality

3.—(1) The Secretary of State, or a contractor, or any person appointed by, or acting on behalf of the Secretary of State, must charge the fee specified in fees regulations in respect of the exercise of the functions in connection with immigration or nationality that are specified in this Order.

(2) The fee specified in such regulations may not exceed the maximum amount specified in this Order in respect of the relevant function.

(3) The fee specified in such regulations must be calculated in the manner specified in this Order.

(4) Where no particular manner is specified, the fee must be a fixed amount.