Draft Regulations laid before Parliament under section 42(7) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

IMMIGRATION
NATIONALITY

The Immigration and Nationality (Fees) Regulations 2014

Made - - - -
Coming into force in accordance with regulations 2 and 3.

The Secretary of State makes the following Regulations with the consent of the Treasury(**1**), in exercise of the powers conferred by sections 51(3) and 52(1), (3) and (6) of the Immigration, Asylum and Nationality Act 2006(**2**), and in reliance on section 42(1), (2) and (2A) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**3**).

These Regulations are made pursuant to the Immigration and Nationality (Fees) Order 2011(**4**).

In accordance with section 42(6) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, the Secretary of State has consulted with such persons as appear to her to be appropriate prior to making these Regulations.

In accordance with section 42(7) of that Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Immigration and Nationality (Fees) Regulations 2014.

2. Subject to regulation 3, these Regulations come into force on 6th April 2014.

3. Regulation 11 comes into force on 31st March 2014.

Interpretation

4.—(1) In these Regulations—

(**1**) In pursuance of section 52(5)(a) of the Immigration, Asylum and Nationality Act 2006 (c.13).
(**2**) 2006 c.13.
(**3**) 2004 c.19; section 42(1) was amended by, and section 42(2A) was inserted by, section 20 of the UK Borders Act 2007 (c.30).
(**4**) S.I. 2011/445; this Order was amended by the Immigration and Nationality (Fees)(Amendment) Order 2013 (S.I. 2013/249) and the Immigration and Nationality (Fees) (Amendment) Order 2014 (S.I. 2014/**XXX**)

"the 1971 Act" means the Immigration Act 1971(**5**);

"the 2011 Order" means the Immigration and Nationality (Fees) Order 2011;

"approval letter from a designated competent body" means a letter from a designated competent body within the meaning of the immigration rules(**6**) endorsing a proposed application for leave to remain in, or leave to enter the United Kingdom as a Tier 1 (Exceptional Talent) Migrant;

"certificate of sponsorship" means an authorisation issued by the Secretary of State to a sponsor in respect of one or more applications, or potential applications, for leave to remain in or leave to enter the United Kingdom;

"CESC national" means a person who 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(**7**);

"Channel Islands" means the Bailiwick of Guernsey and the Bailiwick of Jersey;

"child" means a person under the age of 18;

"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 and nationality to applicants outside the United Kingdom;

"dependant" in respect of a person means—

(a) the spouse or civil partner of that person;

(b) someone who has been living with that person in a relationship akin to a marriage or civil partnership for at least two years; or

(c) a child of that person;

"EC Association Agreement with Turkey" means the agreement establishing an Association between the European Community and Turkey signed at Ankara on 12th September 1963(**8**);

"immigration and nationality fees regulations" means regulations made under sections 51(3) and 52(1) and (3) of the Immigration, Asylum and Nationality Act 2006;

"immigration or nationality application" means an application for which a fee is specified in these Regulations or other immigration and nationality fees regulations;

"immigration rules" means the rules for the time being laid down by the Secretary of State as mentioned in section 3(2) of the 1971 Act.

"leave to enter the United Kingdom" means leave to enter the United Kingdom given in accordance with the provisions of the 1971 Act or the immigration rules and any subsequent variation of that leave;

"leave to remain in the United Kingdom" means leave to remain in the United Kingdom given in accordance with the provisions of the 1971 Act or the immigration rules and any subsequent variation of that leave;

"main applicant" means a person who has made an application for leave to enter or remain in the United Kingdom, or has been granted leave to enter or remain in the United Kingdom, as distinct from a person applying as the dependent of such a person;

"Points-Based System" has the same meaning as provided in the immigration rules;

"shortage occupation certificate of sponsorship" means a certificate of sponsorship issued in respect of an applicant applying for leave to remain in the United Kingdom in order to take

(**5**) 1971 c.77.
(**6**) Laid before Parliament on 23rd May 1994 (HC 395).
(**7**) (CETS NO.:035).
(**8**) OJ No C 113, 24.12.73, p 2

up employment in an occupation listed in the Shortage Occupation List set out in Appendix K to the immigration rules;

"sponsor" means a sponsor under Part 6A of the immigration rules;

"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;

"Tier 1 (Entrepreneur) Migrant", "Tier 1 (Exceptional Talent) Migrant", "Tier 1 (General) Migrant", "Tier 1 (Graduate Entrepreneur) Migrant", "Tier 1 (Investor) Migrant", and "Tier 1 (Post-Study Work) Migrant" have the same meaning as provided in the immigration rules;

"Tier 2 Migrant", "Tier 2 (General) Migrant", "Tier 2 (Intra-Company Transfer) Long Term Staff Migrant", "Tier 2 (Intra-Company Transfer) Short Term Staff Migrant", "Tier 2 (Sportsperson) Migrant", "Tier 2 (Minister of Religion) Migrant", "Tier 2 (Graduate Trainee") Migrant" and "Tier 2 (Skills Transfer) Migrant" have the same meaning as provided in the immigration rules;

"Tier 4 Migrant" has the same meaning as provided in the immigration rules;

"Tier 5 Migrant" and "Tier 5 (Temporary Worker) Migrant" have the same meaning as provided in the immigration rules;

"work permit holder" means a person holding an extant work permit granted under the work permit provisions formerly contained in the immigration rules(**9**).

(2) In these Regulations, "entry clearance" has the same meaning as provided in section 33(1) of the 1971 Act(**10**), save that in regulation 9 and Schedule 5, it has the same meaning as provided in section 33(1) of the 1971 Act as extended to the Channel Islands(**11**).

Fees for applications, processes and services in connection with immigration and nationality

5. Schedule 1 (Fees for applications for leave to remain in the United Kingdom) has effect to specify—

(a) the amount of the fees for—

(i) specified applications for leave to remain in the United Kingdom and variation of such leave for the purposes of article 3(2)(a) and (c) of the 2011 Order;

(ii) an application for an approval letter from a designated competent body for the purposes of article 3(2)(f) of the 2011 Order; and

(b) exceptions to the requirement to pay the fees referred to in paragraph (a)(i).

6. Schedule 2 (Fees for applications for entry clearance to enter the United Kingdom) has effect to specify—

(a) the amount of the fees for—

(i) specified applications for entry clearance to enter the United Kingdom for the purposes of article 3(2)(b) of the 2011 Order;

(ii) an application for an approval letter from a designated competent body for the purposes of article 3(2)(f) of the 2011 Order; and

(b) exceptions to the requirement to pay the fees referred to in paragraph (a)(i) and circumstances in which such fees may be waived or reduced.

(**9**) The provisions previously set out in the immigration rules relating to leave to enter the United Kingdom as a work permit holder have been withdrawn, and replaced by Part 6A of the immigration rules (Points-Based System).

(**10**) The definition of "entry clearance" in section 33(1) was amended by paragraph 2 of Schedule 4 to the British Nationality Act 1981 (c.61) and paragraph 5 of the Schedule to the Immigration Act 1988 (c.14).

(**11**) Section 33(1) was extended with modifications to the Bailiwick of Guernsey by the Immigration (Guernsey) Order 1993 (S.I. 1993/1796), and to the Bailiwick of Jersey by the Immigration (Jersey) Order 1993 (S.I.1993/1797).

7. Schedule 3 (Fees in relation to Sponsor Licences) has effect to specify the amount of the fees for specified applications for sponsor licences, for premium customer services for sponsors, and for related processes for the purposes of articles 3(2)(t) and (u), 4(m), and 5 of the 2011 Order.

8. Schedule 4 (Fees for applications in connection with nationality) has effect to specify the amount of fees for specified applications in connection with nationality for the purposes of article 3(2)(h), (j), (k), (l), (m), (n), (o) and (p) of the 2011 Order.

9. Schedule 5 (Fees for entry clearance to enter the Channel Islands) has effect to specify the amount of fees for specified applications for entry clearance to enter either of the Channel Islands for the purposes of article 6 of the 2011 Order and exceptions to the requirement to pay such fees and circumstances in which such fees may be waived or reduced.

10. Schedule 6 (Fees for expediting applications, applications made in person, and optional services for applicants within the United Kingdom) has effect to specify—

(a) the amount of the fees for—

(i) the attendance by a representative of the Secretary of State at a location of the applicant's choosing, for the purposes of article 4(i) of the 2011 Order;

(ii) the provision of services outside office hours for the purposes of article 4(j) of the 2011 Order;

(iii) the provision of arrangements for expediting the processing of immigration and nationality applications, made from within the United Kingdom, for the purposes of article 4(k) of the 2011 Order;

(iv) the provision of arrangements enabling immigration or nationality applications made from within the United Kingdom to be made in person, for the purposes of article 4(l) of the 2011 Order;

(v) optional services enabling expedited entry into the United Kingdom, for the purposes of article 4(q) of the 2011 Order; and

(b) circumstances in which such fees may be waived or reduced.

11. Schedule 7 (Fees for expediting applications, applications made in person, and optional services for applicants outside the United Kingdom) has effect to specify—

(a) the amount of the fees for—

(i) the acceptance or processing of an immigration or nationality application, or of information (including biometric information) in relation to such an application from outside the United Kingdom at a facility managed by a contractor or at any other place for the purposes of article 4(o) of the 2011 Order;

(ii) the provision of arrangements for expediting the processing (or an element of the processing) of immigration or nationality applications, made outside the United Kingdom, for the purposes of article 4(k) of the 2011 Order;

(iii) the provision by a contractor of services outside the United Kingdom outside office hours for the purposes of article 4(j) of the 2011 Order;

(iv) the provision of advice and assistance in relation to an immigration or nationality application to applicants outside the United Kingdom by way of the international contact centre service, for the purposes of article 7(a) of the 2011 Order; and

(b) circumstances in which such fees may be waived or reduced.

Rate of Exchange

12. The rate of exchange for calculating the equivalents of fees set out in these Regulations but paid in a foreign currency must be based upon the rate of exchange which is generally prevailing

on the date, and at the place of payment, but which may be adjusted by the Secretary of State (or a representative of the Secretary of State) in such a manner and to such an extent as that person considers expedient in the interests of administrative efficiency.

Consequences of failing to pay the specified fee

13. Where these Regulations specify a fee which must accompany an application for the purposes of the 2011 Order, the application is not validly made unless it is accompanied by the specified fee.

Revocation

14. The Immigration and Nationality (Fees) Regulations 2013(**12**) are revoked.

Minister of State
Home Office

We consent

Two of the Lords Commissioners of Her Majesty's Treasury

(**12**) S.I. 2013/749.