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

2011 No.

IMMIGRATION
NATIONALITY

The Immigration and Nationality (Fees) Regulations 2011

Made - - - -	***
Coming into force - -	***

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), 52(1) and (3) 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**).

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 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, commencement and interpretation

1. These Regulations may be cited as the Immigration and Nationality (Fees) Regulations 2011 and shall come into force on 6th April 2011.

2. In these Regulations—

"the 1971 Act" means the Immigration Act 1971(**4**);

"the 1981 Act" means the British Nationality Act 1981(**5**);

"the 2006 Act" means the Immigration, Asylum and Nationality Act 2006;

"the 2011 Order" means the Immigration and Nationality (Fees) Order 2011(**6**);

(**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 s.42(2A) was inserted by, section 20 of the UK Borders Act 2007 (c.30).
(**4**) 1971 c.77.
(**5**) 1981 c. 61.
(**6**) S.I. 2011/445.

"an application for naturalisation" means an application for naturalisation as a—

(a) British citizen under section 6(1) or (2) of the 1981 Act, or

(b) British overseas territories citizen under section 18(1) or (2) of the 1981 Act;

"an application for registration" means an application for registration as a—

(a) British citizen under section 1(3)(**7**), (3A)(**8**) or (4), 3(1), (2)(**9**) or (5)(**10**), 4(2) or (5), 4A(**11**), 4B(**12**), 4D(**13**), 10(1)(**14**) or (2)(**15**), or 13(1) or (3) of the 1981 Act, or paragraph 3(**16**), 4(**17**) or 5 of Schedule 2 to the 1981 Act;

(b) British overseas territories citizen under sections 24(**18**) and 13(1) or (3), or 15(3)(**19**) or (4)(**20**), 17(1)(**21**), (2)(**22**) or (5)(**23**), or 22(1)(**24**) or (2)(**25**) of, or paragraph 3, 4 or 5 of Schedule 2 to, the 1981 Act;

(c) British overseas citizen under section 27(1) of the 1981 Act, or paragraph 4 or 5 of Schedule 2 to that Act, or

(d) British subject under section 32 of, or paragraph 4 of Schedule 2 to, the 1981 Act;

"assistance" means assistance, accommodation or maintenance provided under—

(a) section 17, 20 or 23 of the Children Act 1989(**26**),

(b) section 22, 25 or 26 of the Children (Scotland) Act 1995(**27**), or

(c) article 18, 21 or 27 of the Children (Northern Ireland) Order 1995(**28**);

"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 enter the United Kingdom under the immigration rules;

"charity" means an English charity, a Scottish charity or a Northern Ireland charity;

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

(**7**) Section 1(3) was amended by section 42(3) of the Borders, Citizenship and Immigration Act 2009 (c.11).
(**8**) Section 1(3A) was inserted by section 42(4) of the Borders, Citizenship and Immigration Act 2009.
(**9**) Section 3(2) was amended by section 5 of, and paragraphs 3(1) and (2) of Schedule 1 to, the British Overseas Territories Act 2002 (c. 8) and section 43(2) of the Borders, Citizenship and Immigration Act 2009.
(**10**) Section 3(5) was amended by section 5 of, and paragraphs 3(1) and (4) of Schedule 1 to, the British Overseas Territories Act 2002.
(**11**) Section 4A was inserted by section 4 of the British Overseas Territories Act 2002.
(**12**) Section 4B was inserted by section 12 of the Nationality, Immigration and Asylum Act 2002 (c.41) and was amended by section 44(2), (3), and (4) of, and paragraph 2(1) of Schedule 1 to the Borders, Citizenship and Immigration Act 2009.
(**13**) Section 4C was inserted by section 46 of the Borders, Citizenship and Immigration Act 2009.
(**14**) Section 10(1) was amended by paragraph 1 of Schedule 9 to the Nationality, Immigration and Asylum Act 2002.
(**15**) Section 10(2) was amended by paragraph 1 of Schedule 9 to the Nationality, Immigration and Asylum Act 2002 and by paragraph 73 of Schedule 27 to the Civil Partnership Act 2004 (c.33).
(**16**) Paragraph 3 of Schedule 2 was amended by sections 1(1)(b) and 2(2) of the British Overseas Territories Act 2002 and paragraph 1 of Schedule 9 to the Nationality, Immigration and Asylum Act 2002.
(**17**) Paragraph 3 of Schedule 2 was amended by sections 1(1)(b) and 2(3) of the British Overseas Territories Act 2002.
(**18**) Section 24 was amended by section 2(2) of the British Overseas Territories Act 2002 c.8.
(**19**) Section 15(3) was amended by sections 1(1)(b) and 2(2) of the British Overseas Territories Act 2002.
(**20**) Section 15(4) was amended by sections 1(1)(b) and 2(2) of the British Overseas Territories Act 2002.
(**21**) Section 17(1) was amended by section 2(2) of the British Overseas Territories Act 2002.
(**22**) Section 17(2) was amended by sections 1(1)(b) and 2(2) of the British Overseas Territories Act 2002.
(**23**) Section 17(5) was amended by sections 1(1)(b) and 2(2) of the British Overseas Territories Act 2002.
(**24**) Section 22(1) was amended by sections 1(1)(b) and 2(2) of the British Overseas Territories Act 2002 and paragraph 1 of Schedule 9 to the Nationality, Immigration and Asylum Act 2002.
(**25**) Section 22(2) was amended by sections 1(1)(b) and 2(2) of the British Overseas Territories Act 2002, paragraph 1 of Schedule 9 to the Nationality, Immigration and Asylum Act 2002 c.41 and paragraph 77 of Schedule 27 to the Civil Partnership Act.
(**26**) 1989 c. 41.
(**27**) 1995 c. 36.
(**28**) S.I. 1995/ 755 (N.1. 2).

"claim for asylum" has the meaning given in section 94(1) of the Immigration and Asylum Act 1999(**29**), and a claim for asylum is to be taken to be determined—

(a) on the day on which the Secretary of State notifies the claimant of the decision on the claim,

(b) if the claimant has appealed against the Secretary of State's decision, on the day on which the appeal is disposed of, or

(c) if the claimant has brought an appeal from within the United Kingdom, against an immigration decision under section 82 of the Nationality, Immigration and Asylum Act 2002(**30**) or section 2 of the Special Immigration Appeals Commission Act 1997(**31**), on the day on which the appeal is disposed of;

"Council of Europe Social Charter" means the Council of Europe Treaty establishing social and economic human rights signed in Turin on 18th October 1961(**32**);

"Council of Europe Revised Social Charter" means the Council of Europe Treaty signed in Strasbourg on 3rd May 1996(**33**);

"Crown Dependencies" means the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man;

"dependant" in respect of a person means—

(a) the spouse, civil partner or unmarried or same-sex partner, or

(b) a child,

of that person;

"English charity" means a charity as defined in section 1 of the Charities Act 2006(**34**);

"entry clearance" has, subject to regulation 36, the same meaning as provided in section 33(1) of the 1971 Act(**35**);

"European Community Association Agreement" means the—

(a) Agreement establishing an Association between the European Community and Turkey, signed at Ankara on 12 September 1963,

(b) Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, signed at Brussels on 8th March 1993, and

(c) Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Romania, of the other part, signed at Brussels on 1st February 1993;

"Foreign and Commonwealth Office's Bilateral Programmes" refers to programmes operated by the Foreign and Commonwealth Office to give funds directly to Embassies and Missions outside the United Kingdom to support activities directly connected to the United Kingdom's international priorities;

(**29**) 1999 c.33; section 94(1) was amended by section 60(2) of the Nationality, Immigration and Asylum Act 2002 and paragraph 180 of Schedule 3 to the Transfer of Tribunal Functions Order 2008/2833 (S.I. 2008/2833).
(**30**) 2002 c.41.
(**31**) Amended by section 114(3) of the Nationality, Immigration and Asylum Act 2002.
(**32**) (CETS NO.:035).
(**33**) (CETS NO.:163).
(**34**) 2006 c. 50.
(**35**) The definition of "entry clearance" in section 33(1) was amended by paragraph 2 of Schedule 4 to the 1981 Act and paragraph 5 of the Schedule to the Immigration Act 1988 (c.14).

"Foreign and Commonwealth Office's Strategic Programmes" refers to programmes of funding operated by the Foreign and Commonwealth Office to promote action on global issues in areas of strategic importance to the United Kingdom;

"Highly Skilled Migrant Programme" means the programme operated by the Secretary of State for highly skilled migrants under the immigration rules;

"Home Office approved training" means Home Office approved training under Part 4 of the immigration rules;

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

"immigration rules" means rules made under 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;

"Northern Ireland charity" means a charity within the meaning of section 1 of the Charities Act (Northern Ireland) 2008(**36**);

"premium case working basis" means the processing of applications under the super premium service offered by the United Kingdom Border Agency to applicants seeking to extend their stay in the United Kingdom;

"Public Enquiry Office" means a public enquiry office of the United Kingdom Border Agency;

"Scottish charity" means a body entered in the Scottish Charity Register;

"seasonal agricultural worker" means a seasonal agricultural worker under Part 4 of the immigration rules;

"Sectors-Based Scheme" means the programme operated by the Secretary of State for employment as a sector based worker under the immigration rules;

"small sponsor" means a sponsor that is either—

(a) a company that qualifies as small in accordance with sections 382 and 383 of the Companies Act 2006(**37**); or

(b) in the case of a person who is not a company for the purposes of those sections, a person who employs no more than 50 employees; or

(c) a charity;

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

"sponsor licence" means a licence granted by the Secretary of State under the immigration rules allowing a person to act as a sponsor;

"Tier 1 Migrant" has the same meaning as provided in the immigration rules;

"Tier 1 (General) Migrant" has the same meaning as provided in the immigration rules;

"Tier 1 (Entrepreneur) Migrant" has the same meaning as provided in the immigration rules;

"Tier 1 (Exceptional Talent) Migrant" has the same meaning as provided in the immigration rules;

"Tier 1 (Investor) Migrant" has the same meaning as provided in the immigration rules;

(**36**) 2008 c. 12.
(**37**) 2006 c. 46.

"Tier 1 (Post-Study Work) Migrant" has the same meaning as provided in the immigration rules;

"Tier 2 Migrant" has the same meaning as provided in the immigration rules;

"Tier 2 (Intra-Company Transfer) Migrant" has the same meaning as provided in the immigration rules;

"Tier 1 (Post-Study Work) Migrant" has 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" has the same meaning as provided in the immigration rules;

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

"unmarried or same sex partner" of a person means someone who is living with that person in a relationship akin to marriage or civil partnership which has subsisted for two years or more;

"work permit employment" means employment as a work permit holder under the immigration rules;

"United Kingdom Border Agency" means the United Kingdom Border Agency of the Home Office;

"United Kingdom Border Agency website" means the public website maintained by the United Kingdom Border Agency(**38**).

Fees for applications for leave in the United Kingdom

3.—(1) In the case of an application to which article 3(2)(a) or (c) of the 2011 Order applies, where the application is for limited leave to remain in the United Kingdom—

(a) for the purposes of employment under the Sectors-Based Scheme;

(b) for Home Office approved training; or

(c) as a seasonal agricultural worker,

the fees are those specified in paragraph (2).

(2) The fees are—

(a) £550 where such application is made in person at a Public Enquiry Office; or

(b) £350 for an application made by post or courier or via the United Kingdom Border Agency website.

(3) This regulation is subject to regulations 16, 17, 19 and 20.

4.—(1) In the case of an application to which article 3(2)(a) or (c) of the 2011 Order applies, where the application is for limited leave to remain in the United Kingdom for work permit employment the fee is—

(a) £850 where such application is made in person at a Public Enquiry Office; or

(b) £550 for an application made by post or courier or via the United Kingdom Border Agency website.

(2) This regulation is subject to regulations 16, 17, 19 and 20.

5.—(1) In the case of an application to which article 3(2)(a) or (c) of the 2011 Order applies, where the application is for limited leave to remain in the United Kingdom as—

(**38**) www.ukba.homeoffice.gov.uk.