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

2010 No.

IMMIGRATION
NATIONALITY

The Immigration and Nationality (Fees)(No.2) Regulations 2010

Made - - - - ***

Coming into force in accordance with regulation 1

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(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) (No.2) Regulations 2010 and shall come into force on the day after the day on which they are made.

2. In these Regulations—

"the 1981 Act" means the British Nationality Act 1981(**4**);

"the 2007 Order" means the Immigration and Nationality (Fees) Order 2007(**5**);

"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;

(**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) is amended by, and s.42(2A) is inserted by, section 20 of the UK Borders Act 2007 (c.30).
(**4**) 1981 c. 61.
(**5**) S.I. 2007/807 as amended by S.I. 2008/166 and S.I. 2009/420.

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

(a) British citizen under section 1(3) or (4), 3(1), (2)(**6**) or (5)(**7**), 4(2) or (5), 4A(**8**), 4B(**9**), 4C(**10**), 10(1)(**11**) or (2)(**12**), or 13(1) or (3) of, or paragraph 3(**13**), 4(**14**) or 5 of Schedule 2 to, the 1981 Act,

(b) British overseas territories citizen under sections 24 and 13(1) or (3), or 15(3) or (4), 17(1), (2) or (5), or 22(1) or (2) of, or paragraph 3, 4 or 5 of Schedule 2 to, the 1981 Act,

(c) British overseas citizen under section 27(1) of, or paragraph 4 or 5 of Schedule 2 to, the 1981 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(**15**),

(b) section 22, 25 or 26 of the Children (Scotland) Act 1995(**16**), or

(c) article 18, 21 or 27 of the Children (Northern Ireland) Order 1995(**17**);

"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 eighteen;

"claim for asylum" has the meaning given in section 94(1) of the Immigration and Asylum Act 1999(**18**), 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 or section 2 of the Special Immigration Appeals Commission Act 1997(**19**), 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(**20**);

(**6**) Amended by section 5 of, and paragraphs 3(1) and (2) of Schedule 1 to, the British Overseas Territories Act 2002 (c. 8).
(**7**) Amended by section 5 of, and paragraphs 3(1) and (4) of Schedule 1 to, the British Overseas Territories Act 2002.
(**8**) Inserted by section 4 of the British Overseas Territories Act 2002 (c.8).
(**9**) Inserted by section 12 of the Nationality, Immigration and Asylum Act 2002 (c.41).
(**10**) Inserted by section 13 of the Nationality, Immigration and Asylum Act 2002 as amended by section 45 of the Borders, Citizenship and Immigration Act 2009 (c.11).
(**11**) Amended by sections 5(a) and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002.
(**12**) Amended by sections 5(a) and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002 and by section 261(1) of, and paragraph 73 of Schedule 27 to, the Civil Partnership Act 2004 (c.33).
(**13**) Amended by section 1(1)(b) of the British Overseas Territories Act 2002 and by sections 8 and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002.
(**14**) Amended by sections 1(1)(b) and 2(2)(b) of the British Overseas Territories Act 2002.
(**15**) 1989 c. 41.
(**16**) 1995 c. 36.
(**17**) S.I. 1995/ 755 (N.1. 2).
(**18**) Amended by section 44(1) and (2) of the Nationality, Immigration and Asylum Act 2002.
(**19**) Amended by section 114(3) of the Nationality, Immigration and Asylum Act 2002.
(**20**) (CETS NO.:035).

"Council of Europe Revised Social Charter" means the Council of Europe Treaty signed in Strasbourg on 3rd May 1996(**21**);

"dependant" in respect of a person means—

(a) the spouse, civil partner, 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(**22**);

"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;

"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;

"immigration rules" means rules made under section 3(2) of the Immigration Act 1971(**23**);

"leave to remain" includes variation of leave to enter or remain;

"Northern Ireland charity" means a charity within the meaning of section 1 of the Charities Act (Northern Ireland) 2008(**24**);

"premium case working basis" means the processing of applications made under the super premium service available via the United Kingdom Border Agency's website(**25**), to applicants seeking to extend their stay in the United Kingdom;

"school teacher" has the same meaning as in section 122 of the Education Act 2002(**26**);

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

"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(**27**); or

(**21**) (CETS NO.:163).
(**22**) 2006 c. 50.
(**23**) 1971 c. 77.
(**24**) 2008 c. 12.
(**25**) www.bia.homeoffice.gov.uk
(**26**) 2002 c. 32.
(**27**) 2006 c. 46.

(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 within the meaning of the immigration rules;

"sponsorship licence" means a sponsor licence as identified within the immigration rules;

"Tier 1 migrant" means a migrant who makes an application of a kind identified in the immigration rules as requiring to be considered under "Tier 1" of the immigration rules' "Points-Based System";

"Tier 2 migrant" means a migrant who makes an application of a kind identified in the immigration rules as requiring to be considered under "Tier 2" of the immigration rules' "Points-Based System";

"Tier 4 migrant" means a migrant who makes an application of a kind identified in the immigration rules as requiring to be considered under "Tier 4" of the immigration rules' "Points-Based System";

"Tier 5 migrant" means a migrant who makes an application of a kind identified in the immigration rules as requiring to be considered under "Tier 5" of the immigration rules' "Points-Based System";

"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.

Fees for applications for leave in the United Kingdom

3.—(1) In the case of an application to which article 3(2)(a) or (b) of the 2007 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,

under the immigration rules, 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 of the UK Border Agency of the Home Office; or

(b) £350 for an application made by post or courier.

(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 (b) of the 2007 Order applies, where the application is for limited leave to remain in the United Kingdom for work permit employment the fee is—

(a) £800 where such application is made in person at a Public Enquiry Office of the UK Border Agency of the Home Office; or

(b) £500 where such an application is made by post or courier.

(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 (b) of the 2007 Order applies, where the application is for limited leave to remain in the United Kingdom as—

(a) a retired person of independent means; or

(b) a sole representative,

under the immigration rules, the fee is £850.

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

6.—(1) In the case of an application to which article 3(2)(a) or (b) of the 2007 Order applies, where the application is for limited leave to remain in the United Kingdom as a Tier 1 migrant, the fees are those specified in paragraphs (2) and (3).

(2) Where the application is for limited leave to remain in the United Kingdom as a Tier 1 (General) migrant, a Tier 1 (Investor) migrant or a Tier 1 (Entrepreneur) migrant under the immigration rules, the fee is—

(a) subject to sub-paragraphs (b) and (c), £850 for an application made by post or courier;

(b) subject to sub-paragraph (c), £770 for an application made by post or courier where the application is for leave to remain as a Tier 1 (General) migrant or a Tier 1 (Entrepreneur) migrant under the immigration rules and is in respect of a person who is a national of a state which has ratified the Council of Europe Social Charter;

(c) subject to regulation 16, £500 for an application made by post or courier in respect of a person who has been granted an approval letter under the Highly Skilled Migrant Programme that is valid for such an application;

(d) subject to sub-paragraphs (e) and (f), £1,150 where such application is made in person at a Public Enquiry Office of the UK Border Agency of the Home Office;

(e) £1,000 for an application made in person at a Public Enquiry Office of the UK Border Agency of the Home Office where the application is for leave to remain as a Tier 1 (General) migrant under the immigration rules and is in respect of a person who is a national of a state which has ratified the Council of Europe Social Charter;

(f) subject to regulation 16, £700 where such an application is made in person at a Public Enquiry Office of the UK Border Agency of the Home Office by a person who has been granted an approval letter under the Highly Skilled Migrant Programme that is valid for such an application.

(3) Where the application is for limited leave to remain in the United Kingdom as a Tier 1 (Post Study Work) migrant under the immigration rules, the fee is—

(a) £550 for an application made by post or courier; or

(b) £850 where such application is made in person at a Public Enquiry Office of the UK Border Agency of the Home Office.

(4) This regulation is subject to regulations 19 and 20.

7.—(1) In the case of an application to which article 3(2)(a) or (b) of the 2007 Order applies, where the application is for limited leave to remain in the United Kingdom, other than an application referred to in paragraph (2), the fee is—

(a) £800 where such application is made in person at a Public Enquiry Office of the UK Border Agency of the Home Office; or

(b) £500 for an application made by post.

(2) The fee referred to in paragraph (1) does not apply to applications for limited leave to remain in the United Kingdom—

(a) for work permit employment;

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