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

2008 No.

IMMIGRATION

NATIONALITY

The Immigration and Nationality (Fees)(Amendment) Regulations 2008

Made - - - - ***

Coming into force in accordance with regulation 1

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

In accordance with section 42(6) of that Act, 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 the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Immigration and Nationality (Fees) (Amendment) Regulations 2008.

(2) Subject to paragraph (3), these Regulations shall come into force on 29th February 2008.

(3) Regulation 2(11) of these Regulations, in so far as it inserts regulations 20B to 20E, shall come into force on 1st April 2008.

(**1**) 2006 c.13.
(**2**) 2004 c.19. Section 42(1) is amended by, and section 42(2A) is inserted by, section 20 of the UK Borders Act 2007 (c.30).

Amendment

2.—(1) The Immigration and Nationality (Fees) Regulations 2007(**3**) shall be amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of "assistance" insert—

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

(b) after the definition of "dependant" insert—

""English charity" means—

(a) subject to paragraph (b), a charity as defined in section 1 of the Charities Act 2006(**4**);

(b) prior to the commencement of section 1 of the Charities Act 2006, a charity within the meaning of section 96 of the Charities Act 1993(**5**);";

(c) after the definition of "leave to remain" insert—

""Northern Ireland charity" means a charity within the meaning of section 35 of the Charities Act (Northern Ireland) 1964(**6**);";

(d) after the definition of "school teacher" insert—

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

"small sponsor" means a sponsor that is either—

(a) subject to paragraph (b)—

(i) a company that qualifies as small in accordance with sections 382 and 383 of the Companies Act 2006(**7**); or

(ii) in the case of a person who is not a company for the purposes of sections 382 and 383 of the Companies Act 2006 and therefore does not qualify as small in accordance with those sections, a person who employs no more than 50 employees;

(b) prior to the commencement of sections 382 and 383 of the Companies Act 2006—

(i) a company that qualifies as small or medium sized for the purposes of section 247 of the Companies Act 1985(**8**); or

(ii) in the case of a person who is not a company for the purposes of section 247 of the Companies Act 1985 and therefore does not qualify as small or medium-sized in accordance with that section, a person who employs no more than 50 employees; or

(c) a charity.

"sponsor" means a person who is granted a sponsorship licence;

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

(3) Omit regulation 4 (Fees for applications for leave in the United Kingdom).

(**3**) 2007/1158.
(**4**) 2006 c. 50.
(**5**) 1993 c. 10.
(**6**) 1964 c. 33 (N.I.).
(**7**) 2006 c. 46.
(**8**) 1985 c. 6.

(4) After regulation 5 (Fees for applications for leave in the United Kingdom) insert—

"**5A.**—(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 (General) migrant under the immigration rules, the fee is that specified in paragraph (2).

(2) The fee is—

(a) subject to sub-paragraph (b), £750 for an application made by post or courier; or

(b) £350 for an application made by post or courier by a person who has been granted an approval letter under the Highly Skilled Migrant Programme that is valid for such an application.

(3) This regulation is subject to regulations 9, 12, 13 and 14.

5B.—(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), where such application is made in person at the relevant Public Enquiry Office of the Border and Immigration Agency of the Home Office, the fee is £595.

(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;

(c) for Home Office approved training;

(d) as a seasonal agricultural worker;

(e) as a person intending to establish himself in business;

(f) as an innovator;

(g) as an investor;

(h) as a retired person of independent means;

(i) as a sole representative,

(j) as a student;

(k) to re-sit an examination;

(l) to write up a thesis;

(m) as a student union sabbatical officer; or

(n) as a prospective student,

under the immigration rules.

(3) This regulation is subject to regulations 7, 11, 12, 13 and 14.".

(5) In regulation 7, (Exceptions in respect of fees for leave to remain applications) omit "indefinite".

(6) In regulation 9, (Exceptions in respect of fees for leave to remain applications), for "4" substitute "5A".

(7) In regulation 10, (Exceptions in respect of fees for leave to remain applications), omit ", 4".

(8) In regulation 11, (Exceptions in respect of fees for leave to remain applications), after "regulation" insert "5B or".

(9) In regulation 12, (Exceptions in respect of fees for leave to remain applications), omit "4," and after "5" insert ",5A, 5B".