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

2007 No.

IMMIGRATION AND NATIONALITY

The Immigration and Nationality (Fees) Regulations 2007

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

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament, in pursuance of section 42(7) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**1**);

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

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 him to be appropriate prior to making these Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Immigration and Nationality (Fees) Regulations 2007 and shall come into force on the day after the day on which they were made.

2. In these Regulations—

"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) or (4), 3(1), (2)(**3**) or (5)(**4**), 4(2) or (5), 4A(**5**), 4B(**6**), 4C(**7**), 10(1)(**8**) or (2)(**9**), or 13(1) or (3) of, or paragraph 3(**10**), 4(**11**) or 5 of Schedule 2 to, the 1981 Act,

(**1**) 2004 c. 19.
(**2**) 2006. c. 13.
(**3**) Amended by section 5 of, and paragraphs 3(1) and (2) of Schedule 1 to, the British Overseas Territories Act 2002, c. 8.
(**4**) Amended by section 5 of, and paragraphs 3(1) and (4) of Schedule 1 to, the British Overseas Territories Act 2002, c. 8.

(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(**12**),

(b) section 22, 25 or 26 of the Children (Scotland) Act 1995(**13**), or

(c) article 18, 21 or 27 of the Children (Northern Ireland) Order 1995(**14**);

"claim for asylum" has the meaning given in section 94(1) of the Immigration and Asylum Act 1999(**15**), 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 his 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 in-country appeal against an immigration decision under section 82 of the Nationality, Immigration and Asylum Act 2002(**16**) or section 2 of the Special Immigration Appeals Commission Act 1997(**17**), on the day on which the appeal is disposed of;

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

"dependant" in respect of a person means—

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

(b) a child,

of that person;

"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;

(**5**) Inserted by section 4 of the British Overseas Territories Act 2002, c. 8.
(**6**) Inserted by section 12 of the Nationality, Immigration and Asylum Act 2002, c. 41.
(**7**) Inserted by section 13 of the Nationality, Immigration and Asylum Act 2002, c. 41.
(**8**) Amended by sections 5(a) and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002, c. 41.
(**9**) Amended by sections 5(a) and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002, c. 41 and by section 261(1) of, and paragraph 73 of Schedule 27 to, the Civil Partnership Act 2004, c. 33.
(**10**) Amended by section 1(1)(b) of the British Overseas Territories Act 2002, c. 8 and by sections 8 and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002, c. 41.
(**11**) Amended by sections 1(1)(b) and 2(2)(b) of the British Overseas Territories Act 2002, c. 8.
(**12**) 1989 c. 41.
(**13**) 1995 c. 36.
(**14**) S.I. 1995/755 (N.I. 2.).
(**15**) 1999 c. 33.
(**16**) 2002 c. 41.
(**17**) 1997 c. 68.

"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(**18**);

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

"school teacher" has the same meaning as in section 122 of the Education Act 2002(**19**);

"the 1981 Act" means the British Nationality Act 1981(**20**);

"the 2007 Order" means the Immigration and Nationality (Fees) Order 2007(**21**); and

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

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 work permit employment;

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

(c) for Home Office approved training; or

(d) as a seasonal agricultural worker,

under the immigration rules, the fee is that specified in paragraph (2).

(2) The fee is—

(a) £550 for an application made in person at the relevant Public Enquiry Office of the Border and Immigration Agency of the Home Office; or

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

(3) This regulation is subject to regulations 9, 10, 12, 13 and 14.

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 as a highly skilled migrant under the immigration rules, the fee is £350.

(2) This regulation is subject to regulations 9, 10, 12, 13 and 14.

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 a limited leave to remain in the United Kingdom as—

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

(b) an innovator;

(c) an investor;

(d) a retired person of independent means; or

(e) a sole representative,

under the immigration rules, the fee is £750.

(2) This regulation is subject to regulations 10, 12, 13 and 14.

(**18**) 1971 c. 77.
(**19**) 2002 c. 32.
(**20**) 1981 c. 61.
(**21**) S.I. 2007/807

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 indefinite leave to remain in the United Kingdom, the fee is—

(a) £950 for an application made in person at a Public Enquiry Office of the Border and Immigration Agency of the Home Office; or

(b) £750 for an application made by post or courier.

(2) This regulation is subject to regulations 7, 8, 9, 11, 12, 13 and 14.

Exceptions in respect of fees for leave to remain applications

7. No fee is payable in connection with an application for indefinite leave to remain in the United Kingdom, which is made on the basis that the applicant is—

(a) a person making a claim for asylum which has not been determined or has been granted;

(b) a person who has been granted humanitarian protection under the immigration rules;

(c) a person who has been granted limited leave to enter or remain in the United Kingdom outside the provisions of the immigration rules on the rejection of their claim for asylum; or

(d) a dependant of a person referred to in paragraph (a), (b) or (c).

8. No fee is payable in connection with an application referred to in regulation 6, where the application is for indefinite leave to remain in the United Kingdom as a victim of domestic violence under the immigration rules, where at the time of making the application, the applicant appears to the Secretary of State to be destitute.

9. No fee is payable in respect of applications referred to in regulation 3, 4 or, insofar as the application is made for work permit employment or as a highly skilled migrant under the immigration rules, 6, where the application is made in respect of a person who is a national of a state which has ratified the Council of Europe Social Charter(**22**) or the Council of Europe Revised Social Charter(**23**).

10. No fee is payable in respect of applications referred to in regulation 3, 4 or 5, if the application is made in respect of a person seeking variation of leave to enter or remain in the United Kingdom for a period of up to 6 months where the application is made to an immigration officer on arrival at a port of entry in the United Kingdom.

11. No fee is payable in respect of an application referred to in regulation 6 if the application is made in respect of a person who, at the time of making the application, is a child and is being provided with assistance by a local authority (or, in Northern Ireland, an authority, which has the same meaning given in article 2(2) of the Children (Northern Ireland) Order 1995).

12. No fee is payable in respect of an application referred to in regulation 3, 4, 5 or 6 if it is made under the terms of a European Community Association Agreement.

13.—(1) If the conditions specified in paragraph (2) are met, a single fee is payable in connection with the applications made.

(2) The conditions are—

(a) an application is made by an applicant (A) for limited or indefinite leave to remain in the United Kingdom; and

(b) at the same time A makes a similar application on behalf of one or more of his dependants, in circumstances where such persons are applying as dependants of A.

(3) The fee payable shall be the fee specified for the application in respect of A.

(**22**) Signed in Turin on 18th October 1961 (CETS NO.: 035).

(**23**) Signed in Strasbourg on 3rd May 1996 (CETS NO.: 163).