

2008 No. 218

IMMIGRATION

NATIONALITY

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

Made - - - - - *4th February 2008*

Laid before Parliament *6th February 2008*

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(a).

Citation and commencement

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

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

(3) Regulations 2(4) and 2(6) shall come into force on 1st April 2008.

Amendment

2.—(1) The Immigration and Nationality (Cost Recovery Fees) Regulations 2007(b) 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 “document of identity” insert—

““English charity” means—

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

(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(d);”;

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

(a) 2006 c.13.
(b) S.I. 2007/936.
(c) 2006 c. 50. Section 1 of this Act is not yet in force.
(d) 1993 c. 10.

“Northern Ireland charity” means a charity within the meaning of section 35 of the Charities Act (Northern Ireland) 1964(a);

“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(b); 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(c); 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) In regulation 3 (fees for leave to remain applications), omit paragraph (1)(a).

(4) After regulation 10 (exceptions in respect of leave to remain applications) insert—

“Fees for entry clearance

10A.—(1) In the case of an application to which article 3(2)(aa) of the 2007 Order applies,

- (a) where the application is for entry clearance as a visitor for a period of six months or less under the immigration rules, the fee is £65;
- (b) where the application is for entry clearance as a student under the immigration rules, the fee is £99;
- (c) where the application is for entry clearance outside the immigration rules on an application by—
 - (i) entertainers in accordance with Chapter 17 Section 3 of the Immigration Directorate’s Instructions dated April 2007(d);
 - (ii) outside the immigration rules on an application by sportsmen and sportswomen in accordance with Chapter 17 Section 8 of the Immigration Directorate’s Instructions dated August 2001; or
 - (iii) outside the immigration rules on an application by voluntary workers in accordance with Chapter 17 Section 9 of the Immigration Directorate’s Instructions dated July 2003,
the fee is £99;

(a) 1964 c. 33 (N.I.).

(b) 2006 c. 46.

(c) 1985 c. 6.

(d) The Immigration Directorate’s Instructions are available on the website of the Border and Immigration Agency of the Home Office.

(d) where the application is for entry clearance for passing through the United Kingdom, the fee is £45.

(2) This regulation is subject to regulations 10B and 10C.

Exceptions and waivers in respect of fees for entry clearance applications

10B. No fee is payable in relation to an application referred to in regulation 10A where—

- (a) it is in connection with the official duty of any official of Her Majesty's Government;
- (b) it is for the purpose of family reunion under Part 11 of the immigration rules; or
- (c) the Secretary of State determines that the fee should be waived.

10C. The official determining the application may waive the payment of a fee required under regulation 10A where—

- (a) it is made by a candidate for or holder of a scholarship funded by Her Majesty's Government and is in connection with such scholarship; or
- (b) where the official so decides as a matter of international courtesy.”.

(5) In regulation 13 (fees for travel documents), —

- (a) in paragraph (3)(a), for “45” substitute “46”;
- (b) in paragraph (3)(b), for “66” substitute “72”.

(6) After regulation 14 (fee for application for registration as a British citizen) insert—

“Fee for a direct airside transit visa

14A. In the case of an application to which article 3(2)(la) of the 2007 Order applies, the fee is £45.

Fee for a certificate of entitlement to the right to abode

14B. In the case of an application to which article 3(2)(lb) of the 2007 Order applies, and the application is made in respect of an applicant who is in the United Kingdom, the fee is £135.”.

(7) After Regulation 15 (fee for permission to marry or form a civil partnership) insert—

“Fee for sponsorship applications

15A. In the case of an application to which article 3(2)(p) of the 2007 Order applies, where such application is in respect of a person who, if granted a sponsorship licence, would be a small sponsor, the fee is £300.”.

Home Office
4th February 2008

Meg Hillier
Minister of State

We consent

4th February 2008

Dave Watts
Steve McCabe
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Secretary of State specified in the Immigration and Nationality (Fees) (Amendment) Order 2008 (S.I. 2008/166) (the “2008 Amendment Order”), which amends the Immigration and Nationality (Fees) Order 2007 (S.I. 2007/807), matters in connection with immigration or nationality in respect of which she was going to charge a fee. These Regulations specify a fee for certain of those matters which are charged at or below the normal administrative costs of such matters. The fees for certain other matters specified in the 2008 Amendment Order will be specified in the Immigration and Nationality (Fees) (Amendment) Regulations 2008 which are subject to the approval of each House of Parliament.

The Secretary of State has in regulation 2(4) of these Regulations specified fees for entry clearance to the United Kingdom:

- (a) as a visitor for six months or less under the immigration rules;
- (b) as a student under the immigration rules;
- (c) outside the immigration rules on an application by entertainers in accordance with Chapter 17 Section 3 of the Immigration Directorate’s Instructions dated April 2007;
- (d) outside the immigration rules on an application by sportsmen and sportswomen in accordance with Chapter 17 Section 8 of the Immigration Directorate’s Instructions dated August 2001;
- (e) outside the immigration rules on an application by voluntary workers in accordance with Chapter 17 Section 9 of the Immigration Directorate’s Instructions dated July 2003;
- (f) for passing through the United Kingdom.

Regulations 10B and 10C as inserted by regulation 2(4) provide for exceptions and waivers, respectively, to the requirement to pay a specified fee for entry clearance applications.

The Secretary of State has also in these Regulations specified a fee for:

- (a) a direct airside transit visa (regulation 2(6));
- (b) a certificate of entitlement to the right of abode in the United Kingdom, made in respect of an applicant who is in the United Kingdom (regulation 2(6)); and
- (c) a sponsorship licence which is granted to a small sponsor (as defined in these Regulations) (regulation 2(7)).

These Regulations also amend the fee levels for applications for travel documents (regulation 2(5)).

An impact assessment has been prepared in respect of the proposed fees for sponsorship in the Immigration and Nationality (Fees) (Amendment) Regulations 2008 which was laid on 30th January 2008. Copies have been placed in the House Library and the impact assessment will also be published on the Border and Immigration Agency website at www.bia.homeoffice.gov.uk. A separate impact assessment has been prepared on the policy of sponsorship and will be made available on the Border and Immigration website www.bia.homeoffice.gov.uk.

STATUTORY INSTRUMENTS

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