

EXPLANATORY MEMORANDUM TO
THE IMMIGRATION AND NATIONALITY (FEES) (AMENDMENT)
REGULATIONS 2020

2020 No. 77

1. Introduction

- 1.1 This explanatory memorandum has been prepared by The Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations amend the Immigration and Nationality (Fees) Regulations 2018 (“the 2018 Regulations”), to remove application fees for the Tier 1 (Exceptional Talent) immigration route and introduce application fees for the new Global Talent immigration route.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the same as the provisions of the 2018 Regulations which it amends. The amendments therefore extend to England and Wales, Scotland and Northern Ireland; and the amendment made by regulation 3(a)(ii) also extends to the Isle of Man.
- 4.2 The territorial application of this instrument is the same as its extent.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument makes changes to the 2018 Regulations and is being laid in tandem with a Statement of Changes to the Immigration Rules. The Statement of Changes makes provision for the closure of an existing United Kingdom immigration route, and the introduction of a new one. These Regulations provide for fees in respect of applications under the new route and remove fees for applications under the predecessor route.

7. Policy background

What is being done and why?

- 7.1 This instrument makes changes in respect of fees payable for applications under the Tier 1 (Exceptional Talent) immigration route which is being closed to new applicants, and the new Global Talent immigration route, which replaces it. A Statement of Changes to the United Kingdom Immigration Rules is being laid at the same time as this instrument.
- 7.2 The reforms to the Immigration Rules follow an announcement by the Prime Minister on 8 August 2019 of the intention to develop a new fast-track visa route for the brightest and best within the science and research sector and facilitate access to the UK for this group. The new route is similar to the one it replaces but will be open to more applicants, both through the expansion of the arrangements and the removal of the annual cap on applications, which existed under the predecessor route.

Entry Clearance to Enter and Limited Leave to Remain in the United Kingdom

- 7.3 The Tier 1 (Exceptional Talent) route will close to new applicants on 20 February 2020. Therefore we are removing fees for applications for entry clearance to enter and limited leave to remain in the United Kingdom under this route. The existing fee of £608 for applications by dependants of a Tier 1 (Exceptional Talent) Migrant is being preserved, as the Immigration Rules will still allow for applications to be made by a dependant of a person who holds existing leave under that route. This fee will be retained until such time that it is no longer needed.
- 7.4 The Global Talent route will open on 20 February 2020. This instrument sets new fees for entry clearance to enter and limited leave to remain in the United Kingdom under this route. These fees are at the same level as for the route it replaces.

Approval Letters

- 7.5 A key feature of both the Tier 1 (Exceptional Talent) and the Global Talent routes, is the two-stage process for new applicants. The first stage requires an application for an approval letter. Certain organisations are engaged by the Home Office to assess these applications. The relevant organisation confirms whether or not the applicant meets certain, sector-specific criteria. Applicants who are approved by a relevant organisation may then make an application for entry clearance to enter or leave to remain in the United Kingdom.
- 7.6 The applicant's dependants do not have to apply for an approval letter.
- 7.7 The relevant organisation approving applications under the new Global Talent route will be known as an "endorsing body". Under the existing Tier 1 (Exceptional Talent) route, it is a "designated competent body". This instrument therefore adds a new definition of "approval letter from an endorsing body" which, in relation to the United Kingdom, replaces the existing definition of "approval letter from a designated competent body" and applies for the purposes of the new fee provisions referring to "an application to the Home Office for an approval letter from an endorsing body" (new fees 1.3B.1 and 6.2B.1, inserted by regulations 6(b)(ii) and 7(b)(ii) respectively).

Fees

- 7.8 The current specified fee for an approval letter under Tier 1 (Exceptional Talent) arrangements is £456. If the applicant goes on to apply for entry clearance to enter or limited leave to remain, the fee for that application is £152, bringing the total fees payable to £608. Where a person already has leave under this route, but needs to apply to extend their leave, the fee is £608; they are not required to go through the endorsement process again.
- 7.9 Under the new Global Talent route the fees for all applications will be the same as those under the predecessor, Tier 1 (Exceptional Talent) route.

Isle of Man

- 7.10 The Isle of Man immigration rules also legislate for a Tier 1 (Exceptional Talent) immigration route to operate in much the same way as in the United Kingdom. The changes in this instrument only cover the arrangements in the United Kingdom. Existing fees for entry clearance to enter the Isle of Man under the Tier 1 (Exceptional talent) route remain unchanged.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Immigration and Nationality (Fees) Regulations are consolidated periodically.

10. Consultation outcome

- 10.1 There has been no public consultation on the above changes.
- 10.2 The Home Office conducted a targeted public consultation in November and December 2013 on how its charging strategy works in practice, to help inform and shape the approach to charging in the future. Responses to this consultation were analysed and continue to be reflected in this instrument.

11. Guidance

- 11.1 Home Office guidance for staff will be updated to reflect these changes. Information and guidance for members of the public will also be published when this instrument is laid in parliament.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. This same Impact Assessment is being published alongside the Statement of Changes to the Immigration Rules.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 These regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Kevin Foster MP has made the following statement. “It is not appropriate in the circumstances to make provision for review. Fees are kept under regular review and I am satisfied that these regulations do not impact on small businesses.”

15. Contact

15.1 Annie Wattam at the Home Office Telephone: 07557 201215 or email: anniewattam@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Tim Pearson, Deputy Director for the Border, Immigration and Citizenship Strategy Team at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kevin Foster MP at the Home Office can confirm that this Explanatory Memorandum meets the required standard.