
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Immigration and Asylum Act 1999 (Part V Exemption: Licensed Sponsors Tiers 2 and 4) Order 2009 (“the 2009 Order”), the Immigration and Nationality (Fees) Regulations 2018 (“the Immigration Fees Regulations”) and the Passport (Fees) Regulations 2018 (“the Passport Fees Regulations”).

Regulation 2 amends the 2009 Order. Section 84(1) of the Immigration and Asylum Act 1999 prohibits a person who is not a qualified person (within the meaning of that section) from providing immigration advice or immigration services. The 2009 Order provides an exemption for licensed sponsors of Tier 2 and Tier 4 Migrants under the United Kingdom immigration rules. Part 6A of the United Kingdom immigration rules provides for applications by Tier 2 Migrants and formerly provided also for applications by Tier 4 Migrants. Tier 4 applications required sponsorship by a person with a sponsor licence from the Secretary of State (as do Tier 2 applications). The rules have been amended to replace the Tier 4 route with new Student and Child Student routes in new Appendix ST: Student and new Appendix CS: Student. Regulation 2 of these Regulations makes amendments to exempt sponsors of applicants under the new Appendices from the prohibition in section 84(1). It also makes other consequential amendments.

Regulations 3 to 23 amend the Immigration Fees Regulations.

Regulation 16 gives the Secretary of State new powers to waive fees payable under those Regulations. A new power is provided for cases where there are exceptional circumstances affecting a number of people who are in the same or a similar situation and the Secretary of State considers it appropriate, because of the effect of these circumstances on those people, to waive particular fees for all of those people. A new power is also provided to waive fees where the Secretary of State considers it appropriate to do so in consequence of a decision of a court or tribunal in the United Kingdom. These new powers are in addition to existing powers to waive fees in the Immigration Fees Regulations.

Regulation 16 also gives the Secretary of State a power to refund any fee paid under the Immigration Fees Regulations. Regulation 18(4) makes related amendments to paragraph 5 of Schedule 2 to the Immigration Fees Regulations, which deals with the refund of fees where an application for leave to remain in the United Kingdom is varied by a subsequent application before the first application has been determined. Paragraph 5 is amended to require the fee for the first application to be refunded in these circumstances in all cases. The new general refund power will apply in relation to the fee for the further application.

Regulations 4 and 6 to 15 make minor amendments consequential on the addition of the new powers to waive and refund fees.

Regulations 17 and 18(1) to (3) remove existing fees for applications for entry clearance to enter or limited leave to remain in the United Kingdom as a Tier 4 Migrant. They also set new fees for applications for entry clearance to enter or limited leave to remain in the United Kingdom on the Student or Child Student routes provided for by new Appendices ST: Student and CS: Child Student to the United Kingdom immigration rules. Fees for applications by dependants are provided for by paragraph 3 of Schedule 1 and paragraph 3 of Schedule 2 to the Immigration Fees Regulations. The saving provision in regulation 24 of these Regulations preserves the fees for applications by dependants of Tier 4 Migrants.

Regulation 19 amends Table 13 in Schedule 3 to the Immigration Fees Regulations to provide for an exception to existing fees 10.6.1 and 10.6.2 in Table 10. The new exception is for applications for a biometric immigration document made in accordance with regulation 3 of the Immigration (Biometric Registration) Regulations 2008 by a person falling within paragraph (3) of that regulation.

Changes to legislation: *There are currently no known outstanding effects for the The Immigration and Nationality (Replacement of Tier 4 and Fees) and Passport (Fees) (Amendment) Regulations 2020. (See end of Document for details)*

Regulation 20 amends Schedule 4 to the Immigration Fees Regulations, which sets fees for applications and services in connection with sponsorship. As mentioned above, applications under the former Tier 4 route in the United Kingdom immigration rules required sponsorship, as do applications under the new Student and Child Student routes mentioned above. Regulation 20 amends Schedule 4 to reflect the replacement of Tier 4 with the Student and Child Student routes, making amendments to provisions setting fees for sponsor licences, for the provision of premium services to sponsors, for the issuing of a confirmation of acceptance for studies and for applications for a basic compliance assessment.

Regulation 21 amends Schedule 7 to the Immigration Fees Regulations, which sets fees for premium services provided outside the United Kingdom. It amends the definition of “super priority visa service” because that definition is too precise in its reference to the standard of service. It also reduces the rates of certain fees for information or assistance to applicants provided by telephone or email. Regulations 22 and 23 make equivalent amendments to corresponding provisions in Schedule 9 (relating to the Isle of Man) and Schedule 10 (relating to Guernsey and Jersey).

Regulation 25 amends the Passport Fees Regulations. It inserts new regulation 4A, which gives the Secretary of State a general power to refund any fee paid under those Regulations.

Impact assessments have been prepared in respect of the reduction fees for information and assistance to applicants provided by telephone and email and in respect of the replacement of the Tier 4 route in the United Kingdom immigration rules with the new Student and Child Student routes referred to above. These impact assessments are available alongside these Regulations at www.legislation.gov.uk. Copies are also available from the Home Office, Fees and Income Planning Team, 8th Floor, Southern House, Wellesley Grove, Croydon, CR0 1XG. No impact assessment has been published in respect of other changes made by these Regulations because no impact, or no significant impact, on the private, voluntary or public sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Immigration and Nationality (Replacement of Tier 4 and Fees) and Passport (Fees) (Amendment) Regulations 2020.