

**EXPLANATORY MEMORANDUM TO**  
**THE IMMIGRATION AND NATIONALITY (FEES) (AMENDMENT) (NO. 2)**  
**REGULATIONS 2022**

**2022 No. 1062**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 The Immigration and Nationality (Fees) (Amendment) (No.2) Regulations 2022 (“these Regulations”) make provisions consequential to the Statement of Changes to the UK Immigration Rules (HC 719) (“the Statement of Changes”). In addition, they provide amended and reduced fees, new fee waivers and exceptions, and remove certain fees.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) 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 These Regulations amend the Immigration and Nationality (Fees) Regulations 2018 (S.I. 2018/330). Paragraph 7.7 reflects a change related to the Statement of Changes which will be laid before Parliament on 18 October 2022. More information can be found in the Explanatory Memorandum to the Statement of Changes to the UK Immigration Rules, on the gov.uk website HC 719, 18 October 2022. Paragraphs 7.4 and 7.5 relate to certain changes brought about by the Nationality and Borders Act 2022 (Commencement No. 3 and Transitional Provisions) Regulations 2022, which will be made on 18 October 2022. Unless otherwise stated in section 7, the changes in these Regulations will come into effect on 9 November 2022.
- 6.2 These Regulations introduce new fee exceptions related to nationality applications made by Chagossians and make a technical amendment to an existing fee description, in order that the Regulations remain in-step with the Rules.

- 6.3 These Regulations remove fees for the legacy Retired Person of Independent Means Route and for certain administrative applications processes, where the Home Secretary will no longer charge. They also reduce certain fees to reflect a change to policy or reduced processing costs.

## 7. Policy background

### *What is being done and why?*

Applications for Biometric Residence Permits (BRP) and Biometric Residence Cards (BRC)  
*These changes will come into effect at 9.00am on 9 November 2022*

- 7.1 These Regulations remove the requirement to pay a fee for an updated BRP where the applicant has indefinite leave to remain as person who has been granted Asylum or Humanitarian Protection. The same change is made for persons with indefinite leave to remain as a non-EEA dependant of a person with leave granted under the EU Settlement Scheme, who needs to update their BRC. This change places these groups of applicants in the same position as others in the same circumstances. In addition, these Regulations also reduce the fee for persons applying for a “like-for-like” replacement BRP or BRC (for example where the original is lost or stolen) from £56 to £19, to reflect a change in the cost of processing those applications.

### Fee Payable When an Application is Rejected as Invalid.

- 7.2 These Regulations introduce a partial fee waiver in respect of the existing £25 fee which is payable where an application is rejected as invalid. This change addresses a gap in existing policy which arises with the reduction of the fee for a like-for-like replacement BRP or BRC to £19. This £25 fee reflects the average cost incurred by the Home Office prior to an application being rejected and is recovered by way of a deduction from the refund of the fee paid for the rejected application. (Where no fee was paid for the application being rejected, the £25 fee is not payable.)
- 7.3 The practical effect of this amendment is that where the fee paid for the application being rejected as invalid is less than £25, the application fee is simply not refunded. This approach is preferable to applicants automatically incurring a very small debt (the balance between what they paid for their application and £25) which the Home Office would not wish to pursue.

### Fees For Nationality Ceremonies and Oaths. This change will come into effect on 23 November 2022.

- 7.4 The Nationality and Borders Act introduced new routes to British citizenship and British Overseas Territories citizenship, including for Chagossians. The route to British citizenship for Chagossians will be fee-free but the Regulations contain associated fees for British citizenship ceremonies which are mandated under nationality law. The current fee for a ceremony is £80 and where the ceremony requirement is waived but an oath is administered, the fee is £5
- 7.5 The Home Office does not wish to charge Chagossians these ceremony fees because of the socio-economic challenges this community experiences, linked to the unique circumstances of their relocation from the British Indian Ocean Territory. Therefore, these Regulations exempt Chagossians from the requirement to pay those fees.

### Other changes

- 7.6 These Regulations amend a cross-reference to the Rules, mentioned in the fee description for applications for entry clearance to enter the UK, as an adult dependant relative of a person in the UK who has been granted asylum or humanitarian protection. This is a technical change to ensure the Regulations remain in-step with the Rules; the policy itself remains unchanged.
- 7.7 These Regulations remove the fee for leave to remain applications under the closed “Retired Person of Independent Means” route, where there are no potential applicants left in the UK.

## **8. European Union Withdrawal and Future Relationship**

- 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 The Home Office conducted a targeted 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 these Regulations.

## **11. Guidance**

- 11.1 Home Office guidance for staff will be updated to reflect the changes in these Regulations. Information and guidance for members of the public will also be published when these Regulations are laid before Parliament.

## **12. Impact**

- 12.1 There is no significant impact on business, charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the expected impact falls below the threshold for producing one.

## **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 Tom Pursglove MP, Minister for Immigration has made the following statement. “It is not appropriate in the circumstances to make provisions for review. Fees are kept under regular review and I am satisfied that these regulations have no significant impact on small businesses.” Nevertheless, the Home Office will continue to monitor the impact of these regulations.

## **15. Contact**

- 15.1 Annie Wattam at the Home Office Telephone: 07557 205215 or email: [annie.wattam@homeoffice.gov.uk](mailto:annie.wattam@homeoffice.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Paul Darling, Deputy Director – Special Projects, Fees and Income Planning, Corporate Enablers, Finance Directorate at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Minister for Immigration, Tom Pursglove MP at the Home Office can confirm that this Explanatory Memorandum meets the required standard.