

EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND NATIONALITY (FEES) (AMENDMENT) REGULATIONS 2023

2023 No. 349

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) Regulations 2023 (“these Regulations”) amend the Immigration and Nationality (Fees) Regulations 2018 (S.I. 2018/330). A part of these amendments is related to the Statement of Changes laid before Parliament on 9 March 2023. In addition, these Regulations remove some fees on legacy routes, which are since closed, and amend certain fee provisions to add clarification as to the relevant appropriate fee.

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 territorial extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales, Scotland, and Northern Ireland. The amendments made by regulations. The amendments made by regulations 3 and 6 of these Regulations also extend to the Isle of Man to the limit stated in these Regulations.
- 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 the negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Some of the amendments to the Fees Regulations where stated, relate to a Statement of Changes to the UK Immigration Rules laid before parliament on 9 March 2023 (HC1160). More information can be found in the Explanatory Memorandum to the Statement of Changes to the UK Immigration Rules, on the gov.uk website ([EXPLANATORY MEMORANDUM TO THE STATEMENT OF CHANGES IN IMMIGRATION RULES PRESENTED TO PARLIAMENT ON 9 MARCH 2023 \(HC 1160\) \(publishing.service.gov.uk\)](#)).

- 6.2 These Regulations support the changes in immigration rules in respect of –

- (i) reforms to the Innovator route on introduction of new Appendix Innovator Founder to the Immigration Rules by setting a new endorsement fee for applicants with associated fee exceptions for certain applicants;
- (ii) further changes in respect of the Scale-up route by setting a new fee for an endorsement for a Scale-up sponsor licence application;
- (iii) amendments to the Youth Mobility Scheme by providing a fee to apply within the United Kingdom to extend their leave under that scheme; and
- (iv) updating references to fee provisions in order to align with amended immigration rules in respect of Adult Dependant Relatives and a child joining a non-parent relative in the UK having leave as a refugee or beneficiary of humanitarian protection.

6.3 These Regulations make further amendments to -

- (i) remove a small number of certain fees under legacy immigration routes, to align with ceasing the transitional arrangements on removal of those routes; and
- (ii) amend the existing fee provisions for dependants in order to clarify the position on fees payable by dependants where their lead applicant has since settled or become a British Citizen through a work or business immigration route in the United Kingdom

7. Policy background

What is being done and why?

Fee changes related to the Statement of Changes in the Immigration Rules

Reform of the Innovator Route. These changes will come into effect on 13 April 2023.

- 7.1 The Statement of Changes referred to in paragraph 6.1 above sets out these reforms, which require potential applicants to obtain a letter of endorsement from one of three independent bodies newly appointed by the Secretary of State for their application for leave to enter and remain in the UK. A new Appendix Innovator Founder replaces the existing Appendix Innovator to the Rules. These Regulations set a fee of £1,000 for these endorsements which will be paid to and retained by the individual's chosen endorsing body. These Regulations also make technical changes to reflect the renaming of Appendix Innovator to the rules.
- 7.2 The process of endorsement already exists on both the Start-up and Innovator route where, to date, no fee has been payable for an endorsement. Under the new arrangements, the endorsing bodies will provide endorsement services under formal commercial agreements with the Home Office, delivering greater accountability and transparency in relation to the provision of those services. In that context, the Home Office has considered it appropriate to allow those endorsing bodies to charge applicants for consideration of applications for endorsement.
- 7.3 There are transitional arrangements, for which these Regulations provide fee exceptions under certain conditions to allow the individuals already on those routes to complete their journey to settlement without being required to pay an endorsement fee. Those individuals supported by the Global Entrepreneur Programme (run by the Department of Business and Trade) will be exempt from payment of the fee for any endorsement, in recognition of the fact that this long-standing Government programme pro-actively

seeks and encourages certain business to relocate to the UK. Those who have established endorsing arrangements with the existing endorsing bodies, will also be exempted from payment of the endorsement fee, so long as those existing endorsing bodies (to be known as ‘legacy endorsing bodies’ on the launch of the reformed route) continue to endorse them. Where that option is not available to someone endorsed by an existing Innovator endorsement body because that body chooses not to continue as a legacy endorsing body, those individuals will be able to apply to one of the new bodies, without payment of a fee. However, those individuals switching to a new endorsing body at their own choice will be required to pay a fee. Also, those individuals holding an endorsement from an endorsing body that was approved only for the Start-up route will be required to switch to one of the newly approved endorsing bodies and pay a fee if they seek to switch to the Innovator Founder route.

- 7.4 As part of further reforms to this route, the current Start-up route will be closed from 13 April 2023 for new applicants, unless they were issued with an endorsement before that date, and it will be closed to all new applications from 13 July 2023. However, the visa fees for main applicants and dependants on this route will be maintained to support the transitional arrangements.

Scale-up sponsor licence Endorsements. This change will come into effect on 13 April 2023.

- 7.5 Paragraph 7.1 above mentions new arrangements for endorsements to be issued by certain bodies approved by the Secretary of State. These same endorsing bodies will fulfil a further, similar role in endorsing prospective applicants for a sponsor licence under the Scale-up route. It is already possible to obtain a Scale-up sponsor license but only if the applicant can show they meet certain growth criteria which rely on them having a HMRC footprint covering the previous three-year period. Where that cannot be proven, prospective applicants will be able to apply to one of these bodies, who will assess them against the specified criteria. The sponsor guidance will be updated, and further information will be published on GOV.UK. These Regulations set a fee of £1,500 for these endorsements for Scale-up sponsor license applications, which will be paid to and retained by the individual’s prospective sponsor’s chosen endorsing body.

In-country fee for Youth Mobility Scheme This change will be effective from 29 June 2023.

- 7.6 The Youth Mobility visa enables applicants from relevant countries to enter the UK for up to 2 years for work, with a fee set for out-of-country applications only. The Statement of Changes sets amendments to the Youth Mobility Scheme to allow certain nationals to extend their visa for 1 more year within the UK. These Regulations set a fee for in-country applications for leave to remain in the UK under that scheme. The fee remains the same for both out-of-country and in-country applications.

Fees for Adult Dependant Relatives and a child joining a non-parent relative in the UK

- 7.7 As part of simplification of immigration rules, Appendix Adult Dependent Relative replaces the existing provisions for Adult Dependant Relatives in Appendix FM of the Immigration Rules. Further, Appendix Child staying with or joining a Non-Parent Relative (Protection) replaces the existing provisions for leave to enter or remain in the UK as a child of a relative with limited leave in the UK as a refugee or beneficiary of humanitarian protection under Part 8 of the Immigration Rules. New definitions of ‘protection status’ and ‘refugee leave’ have also been added in the rules. In this respect these Regulations update the related reference in the existing fee provisions so that those stay aligned to the amended immigration rules. The policy itself remains unchanged.

These changes will be effective from the respective dates of those appendices coming into effect.

Further amendments to fees

Removal of fees on legacy immigration routes

- 7.8 **Isle of Man:** Tier 1 (General) and Tier 1 (Post Study Work) migrant routes are no longer available in the Isle of Man immigration system. These Regulations remove the fees for dependants provided under transitional arrangements to enter the Isle of Man to join the main applicants on those routes, as those are no longer required.
- 7.9 **United Kingdom:** Similarly, these Regulations remove the fee provided under transitional arrangements for the dependants on Tier 1 Graduate Entrepreneur to enter or remain in the United Kingdom as those are no longer required since closure of that route.
- 7.10 These Regulations also make further corresponding amendments in respect of the relevant definitions of these routes.

Fee for dependants on work visa routes

- 7.11 Dependants pay the same fee which their lead or main applicant would pay under the same immigration route, regardless of when that dependant applies. Where a dependant applies for limited leave, but their lead applicant's last application was for indefinite leave to remain or citizenship, the dependant is required to pay the fee that corresponds to their lead applicant's last application for limited leave under the related immigration route. To make this fee position clearer, these Regulations make some technical amendments to the related provisions in respect of the dependants where their lead applicant has since settled or become a British Citizen through an immigration route to work or do business in the United Kingdom.

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 closer to the respective commencement dates. 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 A full Impact Assessment has not been prepared for this instrument because of the low anticipated impact of the policy.

13. Regulating small business

- 13.1 The legislation may have a limited impact due to introduction of endorsement fees on the activities that are undertaken by small businesses by Innovators and Scale-up businesspersons; however, this impact is unlikely to be significant.

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, Robert Jenrick, 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 Milind Deshpande at the Home Office can be contacted with any queries regarding the instrument on email: feesandincomeplanning.requests@homeoffice.gov.uk
- 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 Robert Jenrick, MP, Minister of State (Minister for Immigration) can confirm that this Explanatory Memorandum meets the required standard.