

**EXPLANATORY MEMORANDUM TO
THE IMMIGRATION EMPLOYMENT DOCUMENT (FEES) (AMENDMENT)
REGULATIONS 2005**

2005 No.627

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations amend existing legislation by increasing the fee that is to accompany an application for an immigration employment document (“IED”) under the Highly Skilled Migrant Programme (HSMP) from £150 to £315.

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

- 3.1 The current fee of £150 for applications to the HSMP was introduced on 31 October 2003 and was calculated to recover the full costs of the service provided.
 - 3.2 The increased fee for HSMP applications reflects practical experience of the operation of the scheme since the original fee of £150 was determined. In particular, the impact of changes in the application criteria has meant that in practice, HSMP applications have been much more resource intensive, and thereby costly, to consider than was originally forecast. Applicants often submit large amounts of supporting evidence which takes time to assess and often requires further validation checks, either here or abroad.
 - 3.3 As a result, the current fee of £150 has not recovered the full cost of delivering the service for the last two financial years.
 - 3.4 The new application fee of £315 will recover the current costs of administering the scheme and also the deficits incurred in 2003-04 and 2004-05 in relation to considering applications for IEDs in connection with the HSMP scheme.
 - 3.5 The fee has been calculated following approved Treasury guidelines.

4. **Legislative Background**

- 4.1 These Regulations are made under Section 122 of the Nationality, Immigration and Asylum Act 2002. Section 122 of the 2002 Act allows the Secretary of State by regulations to require an application for an IED to be accompanied by a fee. This power has previously been exercised in relation to the HSMP scheme in the Immigration Employment Document (Fees) (Amendment No. 3) Regulations 2003 S.I. 2003/2626.
 - 4.2 These Regulations refer to the Immigration (Application Fees) Order 2005, made under Section 102 of the Finance (No.2) Act 1987. Article 3(1) of that Order expands the existing powers to prescribe fees, and provides for the recovery of deficits in setting the level of fee under section 122.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Not applicable

7. Policy background

- 7.1 The HSMP scheme was introduced on 28 January 2002. It is designed to allow individuals with exceptional personal skills and experience to come to or remain in the United Kingdom to seek and take work.
- 7.2 The HSMP scheme allows individuals to seek entry to work in the United Kingdom without having a prior offer of employment, or to take up self-employment opportunities.
- 7.3 HSMP aims to provide an individual route for highly skilled people who have the skills and experience required by the United Kingdom to compete in the global economy.
- 7.4 The Government aims to deliver a self-financing managed migration programme by 2008, where possible, to reduce reliance on the public purse and generate income to support the ongoing modernisation of immigration services. There is a presumption in the Treasury Fees and Charges Guide that Departments recover the costs of deficits incurred in previous years in relation to chargeable activity, where appropriate.
- 7.5 The fee for an HSMP application is currently charged at a level which reflects some of the administrative cost of a providing a service up to the point of making and conveying a decision. A fee of £315 would ensure that the Government recovers the full administrative cost of delivering the HSMP service and the costs incurred in operating the Scheme in the previous two financial years which have not been recovered through the lower fee of £150.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. Applications to HSMP are made by individuals.

8.2 There is no anticipated impact on the public sector.

9. Contact

Denise Mellor at the Immigration and Nationality Directorate of the Home Office Tel: 0114 2793418 or e-mail: denise.mellor@ind.homeoffice.gsi.gov.uk can answer any queries regarding the instrument.