

EXPLANATORY MEMORANDUM TO
THE CONSULAR FEES (AMENDMENT) (No.2) ORDER 2007

2007 No. 2124

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office.

2. Description

This Order is made to enable Her Majesty to reduce the fee for entry clearance from £200 to £99 for entertainers, sportspersons and voluntary workers outside the Immigration Rules, in accordance with sections 3, 8 or 9 of Chapter 17 of the Home Office Immigration Directorate's Instructions, where a work permit is not required.

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

None.

4. Legislative Background

This Order amends Schedule 1 to the Consular Fees Order 2007 by replacing fee 18 (1) (c) which sets out the fees for applications for entry clearance for various categories of applicants. The effect of the amendment is to reduce the fee from £200 to £99 for entertainers, sportspersons and voluntary workers who apply outside the Immigration Rules (HC 395) laid before Parliament on 23 May 1994 under section 3(2) of the Immigration Act 1971 c. 77 (as amended) in accordance with the Home Office Immigration Directorate's Instructions. These Instructions are published at: <http://www.ind.homeoffice.gov.uk/lawandpolicy/policyinstructions/idis/> or can be obtained from the Home Office, Border and Immigration Agency 40 Wellesley Road, Croydon, CR9 2BY.

5. Extent

This Order applies to all of the United Kingdom.

6. European Convention on Human Rights

As this Order is not subject to Parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

Following public consultation on charging for migration fees, and alongside changes to other visa fee categories, the fee for entry clearance outside the Immigration Rules for entertainers, sportspersons and voluntary workers where a work permit is not required was increased from £85 to £200 by the Consular Fees Order 2007.

A reduction in fee is however now desirable. It has become apparent that the new entry clearance fee of £200 is too high for this limited category of applicants. Whilst after careful calculation it was initially judged that the fee of £200 was fair and

proportionate, it has since become apparent that such a fee may have an adverse impact on these sectors and should therefore be reduced. An amendment to Schedule 1 of the Consular Fees Order 2007 is necessary in order to implement the reduction in fee to £99.

8. Impact

A Regulatory Impact Assessment is attached to this memorandum as the Order could have some minor impact on business, charities or voluntary bodies.

9. Contact

Ceinwen Reeves, Consular Directorate, Foreign and Commonwealth Office can answer any queries regarding the draft Order.

Tel: 0207 008 8862 or e-mail: ceinwen.reeves@fco.gov.uk

Summary: Intervention & Options

Department /Agency: UKvisas (in conjunction with Consular Directorate FCO)	Title: Impact Assessment of entry clearance fee reduction for certain Immigration Rules concession categories	
Stage: Implementation	Version: 1.0	Date: 18 July 2007
Related Publications: HC		

Available to view or download at:

<http://www.fco.gov.uk>

Contact for enquiries: Ceinwen Reeves

Telephone: 020 7008 8862

What is the problem under consideration? Why is government intervention necessary?

The 2006/7 Fee Review raised the cost of “employment” visa categories from £85 to £200. This was to recover costs and raise income to assist other areas in the migration field – such as returns and enforcement. HM Treasury agreed to value-based charging – I.e. the “value” of the entry clearance to the holder in terms of both monetary gain and future prospects – including settlement and citizenship.

However, despite wide consultation before the fee change, it soon came to light that some sectors benefiting from some of the permit-free employment concessions (Entertainers, Sportspeople and Voluntary Workers) were unhappy that the charge for those visas had been aligned to those with longer term, full employment rights and potential future benefits. Lobbying by the sector highlighted these anomalies and led to a fair and objective analysis of how these sectors would be affected weighed against our need to recover costs and raise revenue. It was clear that failure to lower the fee would lead to the cancellation of various important sporting and cultural events as a direct result of overseas participants being unable to afford the visa fee to enter the UK and participate.

Ministers decided this was too high a price to pay and wanted the fee re-assessed with a view to reduction. Government intervention is necessary as it is Government that sets the fees.

What are the policy objectives and the intended effects?

The policy objectives are to ensure wide participation at UK sporting and cultural events and to support the voluntary sector – recognising the difference in benefits between these visas and those of other employment visas. Also to demonstrate to stakeholders that we do listen to their views and respond appropriately.

No sporting or cultural events will be cancelled due to the cost of visas. The voluntary sector does not encounter difficulties recruiting those from overseas where desired.

What policy options have been considered? Please justify any preferred option.

1. Do not reduce fees for these 3 employment concessions.
2. Reduce the fees to respond to stakeholder concerns and to avoid cancellation of important sporting/cultural events. This is our preferred option and this IA is part of the process to implement it.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Entry clearance (visa) fees are reviewed annually in a cross-Whitehall exercise. The effects of fee changes on demand are also regularly monitored and analysed. Feed back from stakeholders is regularly scrutinised. A formal review of this particular fee change will take place after the summer.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 2	Description: Reduce the entry clearance fees for entertainers, sports persons and voluntary workers applying under the permit free employment concessions
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COSTS	ANNUAL COSTS	<p>Description and scale of key monetised costs by ‘main affected groups’ Stakeholders affected by this change will not incur additional costs through cancellation of events or programmes. Any costs will be on a voluntary basis depending on the number and type of events/programmes they chose to stage and how many participants they wish to attract.</p> <p>The “cost” to UKvisas would be loss of revenue. We currently raise about £420,000 from these concessions and so cutting the fee by about half means that revenue would fall to £210,000. However, in light of comments from the sector, we anticipate a 50% downturn in applications – a revenue fall anyway of £210,000 if the fee level remains at £200. We assess, in conjunction with stakeholders, that this reduction in fees will promote greater uptake of this type of entry clearance than if we left the fee at £200 and so even with the reduced fee the measure will be cost neutral as demand will remain at pre-fee change levels raising £210,000 or more. The review after Summer and regularly thereafter, will clarify the position.</p>					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center;">One-off (Transition)</td> <td style="width: 10%; text-align: center;">Yrs</td> </tr> <tr> <td style="text-align: center;">£ None</td> <td></td> </tr> </table>			One-off (Transition)	Yrs	£ None	
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Average Annual Cost (excluding one-off)							
£ Nil							
Total Cost (PV)	£ Nil (see comments above)						
<p>Other key non-monetised costs by ‘main affected groups’</p> <p>See above – any costs would be voluntary and assessed by the affected groups as commensurate with the benefits to be gained.</p>							

BENEFITS	ANNUAL BENEFITS	<p>Description and scale of key monetised benefits by ‘main affected groups’</p> <p>Monetised benefits would be borne by a wide range of events organisers and voluntary sector organisations. Extremely difficult to assess without a high level of intervention with all the potentially affected groups. Uneconomic to affect this work.</p> <p>No expected monetised benefits for UKvisas – see costs above.</p>					
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Average Annual Benefit (excluding one-off)							
£							
Total Benefit (PV)	£						
<p>Other key non-monetised benefits by ‘main affected groups’</p> <p>The promotion and success of cultural and sporting events in the UK and support to the voluntary sector and cultural exchanges.</p> <p>Increase in confidence in UKvisas as Stakeholders believe they are listened to and their opinions valued.</p>							

Key Assumptions/Sensitivities/Risks

Assumption that this fee reduction will be well received, but a key risk that other concessions might argue for a reduction in fees. We are confident that we have a sound basis to argue that these non-profit making categories will be significantly adversely affected if we do not act. We do not have this evidence for other sectors.

Price Base Year 2007	Time Period Years 1 – until next review	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ N/A
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What is the geographic coverage of the policy/option?	UK				
On what date will the policy be implemented?	16 August 2007				
Which organisation(s) will enforce the policy?	UKvisas				
What is the total annual cost of enforcement for these organisations?	£ 247,500 (0.075% of operating costs – but off-set by fee collection)				
Does enforcement comply with Hampton principles?	N/A				
Will implementation go beyond minimum EU requirements?	N/A				
What is the value of the proposed offsetting measure per year?	£ N/A				
What is the value of changes in greenhouse gas emissions?	£ Negligible				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table border="1"> <tr> <td>Micro N/A</td> <td>Small N/A</td> <td>Medium N/A</td> <td>Large N/A</td> </tr> </table>	Micro N/A	Small N/A	Medium N/A	Large N/A
Micro N/A	Small N/A	Medium N/A	Large N/A		
Are any of these organisations exempt?	<table border="1"> <tr> <td>N/A</td> <td>N/A</td> <td>N/A</td> <td>N/A</td> </tr> </table>	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A		

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase	£	Decrease	£	Net £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 1	Description: To not reduce the fees for Entertainers, Sports persons and Voluntary Workers i.e. keep the fee at £200
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'	
	One-off (Transition) Yrs		
	£ Nil	Cost is in lost revenue to UKvisas from fees as we believe demand would drop by at least 50%.	
	Average Annual Cost (excluding one-off)	Cost to main affected groups outside government is potentially high due to cancelled events/programmes and related costs – but extremely difficult to quantify as the groups are potentially many and varied.	
£ 210,000	Total Cost (PV)	£ 210,000	
Other key non-monetised costs by 'main affected groups'			
Cost to UKvisas in staff time responding to complaints and queries and rebuilding stakeholder relations.			

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'	
	One-off Yrs		
	£	Potential savings in processing costs as demand falls – but revenue is set to cover covers costs anyway – so if revenue falls processing costs may not be met.	
	Average Annual Benefit (excluding one-off)		
£ 123,750	Total Benefit (PV)	£	
Other key non-monetised benefits by 'main affected groups'			
UKvisas would not have to take on a volume of work to get this new fee approved.			

Key Assumptions/Sensitivities/Risks

Damage would be done to UKvisas reputation by effectively pricing certain sectors out of the market. Damage would be done to the UK's reputation as a cultural and sporting centre of excellence if we cannot facilitate the entry of those wishing to come here for such purposes. The Voluntary Sector has been the subject of high level political focus. We should not do anything to cause potential problems for this sector.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

According to the letter of the law, an Impact Assessment for the charging of entry clearance fees is not required. IAs are required only where there is a direct impact on industry – I.e the Government is asking industry to do something. As entry clearance fees are paid by the migrant – this is not a direct impact. However, during the clearance for the 2006/7 Fee Review leading to the fee increase in April 2007 the issue of Impact Assessment for the imposition of Government charges on others was raised.

As part of the Asylum and Migration Committee approval process for the 2007 fee increase the Border and Immigration Agency and UKvisas agreed to undertake Impact Assessments on certain key routes to adhere to the spirit rather than the letter of the law. These employment concession routes are not key routes and so this IA has been completed in the spirit of “best practice”.

Current Issue

Following the 2006/7 Fee review and April 2007 fee increase, Entertainment, sports and voluntary workers concessions currently fall under the catch-all category of “other” visas. The fee for this category was raised from £85 to £200 when the visa fees were changed on 1 April this year. We have since been lobbied by various groups to reduce fee to ensure that various events over the summer and the future can go ahead. We assess the financial impact on UKvisas as cost neutral and so are happy to change the fee for the three concessions mentioned above, to be more consistent with our original intent which was not to price any sector out of the market.

The reduced fee would be £99 for these applicants. This would be justified by applying an inflationary uplift to the previous fee of £85 for 2005/06 and 2006/07, then the incorporation of the average Commercial Partner fee of £11 (as with all other visa fees); then rounding up to £99 to facilitate the swift implementation of the change (because the existing student visa fee of £99 means that the systems are already in place to process this fee, and in view of wider objectives to enrich the cultural scene in the UK.

The impact on the sectors affected will be positive and so will be welcomed by them. This is borne out in the evidence attached in the form of lobbying letters.

Immigration Minister Liam Byrne, announced the fee reduction at the Arts & Entertainment Taskforce meeting on 12 June so we need to give this legal effect. There is a risk that we may receive a number of representations from those who are not covered by the change; and we may face criticism that we got the charging strategy wrong. However, the administrative reduction in fees agreed by Ministers has been in place for some weeks and we have not received representations.

We are clear that the change only applies to the clearly defined group of applications made under either the sports, entertainment or voluntary worker concessions. These are essentially those sportspeople or entertainers who are coming to the UK for a specific engagement – either as an amateur or a professional – which falls outside the work permit arrangements (including the “permit free” festivals). This includes the Eisteddfod, the Edinburgh Fringe, Glyndebourne,

and Womad, for example. We estimate that around 2100 applications a year are made under these three concessions all together.

This approach does exclude certain high profile groups, such as the Bolshoi Ballet who apply for visas under the work permit category (because of the nature of their engagements in the UK) at £200 each. Most importantly – in terms of considering the risk of challenge or further representations – it would not cover any of the other concession categories who also apply for visas outside the Rules. We consider that the risk of legal challenge is acceptable, given that we are taking steps to seek Privy Council approval of the change for the three groups and we can argue a distinction between these and other concessions.

HMT have indicated that they are content with the fee change.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annexes

Examples lobbying letters are attached separately:

Letter from UKSport

Letter from Terry Waite