

EXPLANATORY MEMORANDUM TO
THE IMMIGRATION AND NATIONALITY (COST RECOVERY FEES)
REGULATIONS 2013

2013 No. 617

1. This explanatory memorandum has been prepared by the UK Border Agency of 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. **Purpose of the instrument**

2.1 The purpose of this instrument is to specify fees for applications, services and processes relating to immigration and nationality where those fees are at or below the administrative cost of dealing with the application or providing the process or service. They replace the Immigration and Nationality (Cost Recovery Fees) Regulations 2012 and are to come into force on 6 April 2013.

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

3.1 These Regulations contain some new fees and fee increases above the rate of inflation. More detail is set out in sections 7.9 to 7.19 of this memorandum.

4. **Legislative context**

4.1 These Regulations follow on from the Immigration and Nationality (Fees) Order 2011¹, which sets out those applications, processes and services relating to immigration and nationality for which fees can be charged. These Regulations will replace the Immigration and Nationality (Cost Recovery Fees) Regulations 2012², which together with the Immigration and Nationality (Fees) Regulations 2012 have specified immigration and nationality fees since 6 April 2012.

4.2 There are two sets of fees regulations because regulations setting fees are subject to a different parliamentary procedure depending on whether or not they set fees at a level above the relevant administrative costs of processing the relevant application or providing the relevant process or service. Regulations setting fees at or below cost do not require parliamentary approval. Currently, those fees are to be found in the Immigration and Nationality (Cost Recovery Fees) Regulations 2012, which these Regulations will replace. Fees set at a level exceeding the administrative cost of dealing with applications or providing the relevant processes or services must be approved in draft by Parliament before they are made. Such fees are currently specified in the Immigration and Nationality (Fees) Regulations 2012, which will also

¹ This Order was amended in February 2013 by the Immigration and Nationality (Fees) (Amendment) Order 2013.

² Which were amended in October 2012 by the Immigration and Nationality (Cost Recovery Fees) (Amendment) Regulations 2012.

be replaced by a new set of regulations laid on 13 February 2013, which should come into force on 6 April 2013.

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom. The Regulations in addition set fees for entry clearance to enter the Channel Islands.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What we are doing and why:

7.1 These Regulations replace the previous Immigration and Nationality (Cost Recovery Fees) Regulations 2012. The UK Border Agency's overall aim is to generate an appropriate contribution to its agreed running costs from the income generated from visa, nationality and immigration applications. By doing this, the UK Border Agency seeks to reduce the financial obligation on the UK taxpayer to subsidise the immigration system.

7.2 In setting the fees covered by these Regulations at or below administrative costs, the UK Border Agency seek to support wider government objectives. For example, the fees for tourist visas are set below the cost of processing an application in recognition of the importance of this route to the UK economy. The UK Border Agency balances this by setting fees above the administrative cost of processing under other regulations.

7.3 The UK Border Agency has limited the majority of this year's fee increases to 3%, and spread the contribution from applicants generally across all routes. The exception to this is for certain applications and processes where there has been a change to the estimated unit cost of administration. Some fees have been reduced in line with the revised unit costs, for example, fees for transfer of conditions, renunciation of nationality and settlement visa applications for refugee dependant relatives.

7.4 Other fees have increased in line with the revised unit costs, including travel documents (certificate of travel), reissued certificates of nationality, nationality status letters, non-acquisition of nationality letters, correction to certificates of nationality, plus the fees for Tier 4 Confirmations of Acceptance for studies (CAS) and Tier 5 Certificates of Sponsorship (COS) under the Points-Based System (PBS).

7.5 The UK Border Agency has published estimated unit costs for each application type for the financial year 2013-14. Full details are available at <http://www.ukba.homeoffice.gsi.gov.uk/>. The unit cost is the estimated average cost to the Agency of administering each application or process. These costs are provided to Parliament to ensure transparency. Although our unit costs are not fixed over the

course of the financial year, published unit costs enable applicants to see which fees we set over cost and by how much, and which fees are set under cost and by how much.

7.6 The UK Border Agency works to maintain a balance between the objectives of reducing the level of subsidy required from the UK taxpayer to fund the migration system, whilst ensuring that immigration and nationality applicants make a greater contribution to the funding of the immigration system. The proposed fee increases are proportionate and fairly balance these objectives. They also remain good value when compared with equivalent routes in other comparable countries.

7.7 The tables below set out the current fee levels and the new proposed fees, together with estimated unit costs, for products that are set at or below cost, by these Regulations:

VISA FEES

PRODUCTS	2012-13 Fees (£)	Estimated Unit Cost for 13-14 (£)	Proposed Fee for 13-14 (£)
Non PBS Visas			
Short Term Visitor Visa	78	136	80
Settlement (Refugee Dependant Relative)	458	407	407
Transit Visa	52	99	54
Certificate of Entitlement	270	407	278
Vignette Transfer Fee	102	207	105
Call out/out of hours fee	130/hr	134/hr	130/hr
Single entry visa to replace Biometric Residence Permit Overseas	70	136	72
Forwarding documents to Commonwealth Countries/Overseas Territories	70	N/A	70
Handling applications on behalf of Commonwealth Countries/Overseas Territories	50	N/A	50

IN UK – LEAVE TO REMAIN AND NATIONALITY FEES

PRODUCTS	2012-13 Fees (£)	Estimated Unit Cost 13-14 (£)	Proposed Fee for 13-14 (£)	Dependants Fee
NON PBS ROUTES - Migrants Inside UK				
Transfer of Conditions, Postal, Main applicant	220	147	147	147
Travel Documents, Certificate of Travel (CoT), Adult	238	257	257	N/A
Travel Documents, Certificate of Travel (CoT), Child	149	164	164	N/A
Travel Documents, Convention Travel Document, (CTD), Adult	72.50	164	72.50	N/A
Travel Documents, Convention Travel Document, (CTD), Child	46	117	46	N/A
Enrolment of biometrics	19.20	N/A	19.20	N/A
Replacement Biometric Residence Permit	37	38	38	N/A
Work Permit Technical Changes	22	123	22	N/A
Call out/out of hours fee	£130/hr	134/hr	130/hour	N/A
Nationality applications - Migrants in UK				
Renunciation of Nationality	229	187	187	N/A
Re-issued Certificates of Nationality	88	94	94	N/A
Nationality right of abode	165	187	170	N/A
Nationality Reconsideration Fee	80	187	80	N/A
Status Letter (Nationality)	88	94	94	N/A
Non Acquisition Letter (Nationality)	88	94	94	
Nationality Correction to certificate	88	94	94	N/A
European Residence Document – Residence certificate	NEW	82	55	N/A
European Residence Document – Certifying Permanent Residence	NEW	82	55	N/A
European Residence Document – Residence card and Derivative Residence card	NEW	82	55	N/A
European Residence Document – Permanent Residence Card	NEW	82	55	N/A
Administration of ‘Knowledge of Life in the UK’ tests	NEW	N/A	50	N/A

IN UK PBS FEES

PRODUCTS	2012-13 Fees (£)	Estimated Unit Cost for 13-14	Proposed Fee for 13-14	Dependants Fee
PBS - Migrants in UK				
Tier 4 Permission to change Sponsor*	160	160	160	N/A

**For migrants that applied to UKBA for permission to study from 31 March 2009 to 4 October 2009*

PBS SPONSORSHIP FEES

PRODUCTS	2012-13 Fees (£)	Estimated Unit Cost for 13-14 (£)	Proposed Fee for 13-14 (£)
Tier 2 Sponsor licence - small business	500	1,545	515
Tier 4 Sponsor licence	500	1,545	515
Tier 5 Sponsor licence	500	1,545	515
Tier 2, Tier 4 &/or Tier 5 Licence (where sponsor currently holds Tier 4 or Tier 5 licence)	1,000	1,545	1,030
Highly Trusted Sponsor Licence	500	1,545	515
Sponsor Action Plan	1,500	1,545	1,545
Tier 5 CoS	13	14	14
Tier 4 CAS	13	14	14
<i>CoS = Certificate of Study CAS = Confirmation of acceptance for study</i>			

7.8 The following paragraphs explain new fees, routes where an increase above the rate of inflation has been applied, and routes where a fee reduction has been applied:

European Economic Area Documentation

7.9 These Regulations introduce a fee of £55 for documentation issued under the Immigration (European Economic Area) Regulations 2006. The UK Border Agency incurs costs processing and issuing these documents, but does not charge for them at present. Introducing a charge for these documents is consistent with our charging approach that those who benefit directly from the immigration system should contribute towards its cost to reduce the contribution required from general taxation.

7.10 Article 25(2) of Directive 2004/38/EC establishes the power to charge for documentation issued to EEA nationals and their family members exercising free movement rights in the UK and determines that any such charge shall not exceed that imposed on nationals for the issuing of 'similar documents'.

7.11 The fee level has been set at £55 following advice from the European Commission and after balancing consideration of the following factors: charges for similar documents issued to British nationals (for example, the UK Passport which costs £72.50, and the British Nationality Status Letter which costs £88); charges for other documents, which whilst not similar in the rights which they evidence, have a comparable practical effect (for example the UK drivers licence which costs £50); and the estimated cost to the UK Border Agency of issuing the European documentation (£82 per unit).

7.12 These fees will be introduced on 1 July 2013, to coincide with planned amendments to the Immigration (European Economic Area) Regulations 2006.

Commonwealth Games visas

7.13 The UK Border Agency has made changes to facilitate the UK's hosting of the Commonwealth Games 2014. To meet international obligations, accredited Commonwealth Games Family Members (GFM) will be provided with visa free access to the UK. A new short term visit visa route with extended validity has also been introduced for certain participants or GFMs who wish to travel to the UK before the Games. The Commonwealth Games Identity Accreditation Card will only be eligible for use as a visa waiver for certain accredited categories.

Applications and services in connection with Nationality

7.14 The UK Border Agency has changed the fees for some applications and services in connection with nationality to reflect a shift in the estimated unit cost of processing an application. The fee for declaration of renunciation of nationality applications for people who want to give up British citizenship is reduced from £229 to £187. The fees to apply for proof of non-acquisition of British citizenship, a duplicate certificate as proof of British citizenship, confirmation of status or corrections to nationality certificates have increased from £88 to £94. All these fees are set at cost recovery levels.

Settlement (Refugee Dependant Relative)

7.15 Last year, the UK Border Agency reviewed the fee that applies to entry clearance applications from extended family members of refugees and persons granted humanitarian protection. A cost recovery fee was set last year and we propose maintaining this approach for the coming year. This means a lower fee of £407, compared to last year's fee of £458, will apply to reflect the lower estimated unit cost of processing an application.

Administration of the Life in the UK test

7.16 The UK Border Agency proposes a fee of £50 for the administration of the 'Knowledge of life in the UK' test for applicants who need to demonstrate the knowledge of language and life in the UK requirement for settlement or British citizenship applications. A fee has been charged for this test for some time. Following on from changes to the Immigration and Nationality (Fees) Order 2011 to clarify the basis on which we set fees for tests required under the Immigration Rules, we have now included this fee in these Regulations.

Applications for other documents relating to immigration

7.17 The UK Border Agency has adjusted the fees for some applications for documents and processes relating to immigration in line with the revised estimated unit costs. For example: the fee for an application for a certificate of travel has increased in line with unit costs from £238 to £257 for an adult and from £149 to £164 for a child; the fees for transfer of conditions (ToC) applications have reduced from £220 to £147 for main applicants; and ToC applications from dependants have increased to £147 from £110.

Applications for processes relating to sponsor licences under the Points Based System

7.18 The alignment of fees with revised unit costs also affects several applications for processes relating to sponsorship under the Points Based System. The fees for certificates of sponsorship (COS) and confirmations of acceptance for studies (CAS) have both increased from £13 to £14, to remain at cost recovery levels.

7.19 The majority of fee concessions for small businesses and charities that sponsor migrants are being maintained and fees will be kept at or below cost recovery levels. This is in recognition of the importance of keeping direct costs to PBS sponsors as low as possible.

8. Consultation outcome

8.1 The UK Border Agency ran a full public consultation on ‘Charging for Immigration and Visa Applications’ between 1 September 2009 and 1 January 2010. Over 90% of respondents agreed that the UK Border Agency should continue to set fees flexibly by taking into account wider policy objectives, such as attracting specific groups of migrants that are beneficial to the UK. The Agency published the formal government response to the consultation on 14 January 2010 on its website at <http://webarchive.nationalarchives.gov.uk/20100422120657/http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/charging09/>

8.2 Previous consultations on fees and charging, held in 2006 and 2007, helped to establish the principle of flexible charging and initial fee levels for applications under the PBS.

9. Guidance

9.1 The Agency has announced details of the new fee levels and their commencement dates to Parliament in a Written Ministerial Statement on 25 February 2013. Full details of each fee and guidance to general members of the public on how to apply under each route will be made available on the UK Border Agency website.

10. Impact

10.1 The impact on business, charities and voluntary bodies is estimated to be zero net cost as explained in the full impact assessment attached at Annex A to this Explanatory Memorandum, which will also be published on the UK Border Agency website.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 50 people, we have maintained our approach of charging a lower fee for small businesses who apply for sponsor licences.

12. Monitoring & review

12.1 The UK Border Agency will closely monitor the impact of fees for the applications and services contained in these Regulations. The UK Border Agency reviews fees and charges for immigration and nationality applications annually. The UK Border Agency monitors application trends on a monthly basis and officials from all relevant government departments consider proposals to amend fee levels to ensure they do not adversely impact on wider government policy or the UK economy.

13. Contact

13.1 Please contact Shola Akinyamoju at the Income and Charging team, UK Border Agency, Tel: 0208 196 0890 or email: Shola.Akinyamoju@homeoffice.gsi.gov.uk who can answer any queries regarding the instrument.