

# UK BORDERS ACT 2007

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 3: Treatment of claimants

##### Section 20: Fees

65. [Section 20\(2\)](#) provides a power when setting the fees for applications or processes in connection with sponsorship of persons seeking leave to enter or remain in the UK under section 51(3) of the Immigration, Asylum and Nationality Act 2006 ('the 2006 Act'), to set them at above administrative cost recovery levels. It does so by allowing the Secretary of State to prescribe an amount which exceeds the administrative cost of the relevant application or process, based upon the benefits that he thinks are likely to accrue to the person who makes the application, to whom the application relates, or by or for whom the process is undertaken, if the application is successful or the process is completed.
66. It does so by inserting a new paragraph, (da), in subsection (2) of section 42 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ('the 2004 Act'). This will mean that fees specified in regulations which are to be made under section 51(3) of the 2006 Act in reliance on section 42(1) of the 2004 Act, for applications or processes in connection with sponsorship of the relevant persons, will, by virtue of section 42(7) of the 2004 Act, be subject to approval by resolution of each House of Parliament.
67. [Section 20\(3\)](#) provides the Secretary of State with a power when setting the fee for an in-country service in connection with immigration or nationality under section 51 of the 2006 Act to take into account the costs of:
  - (i) Other such services which are charged under section 51 of that Act; and
  - (ii) Certain out-of-country services, in particular applications for entry clearance, transit visas and certificates of entitlement to the right of abode in the United Kingdom, which are charged under section 1 of the Consular Fees Act 1980.
68. The effect of this is to enable the Secretary of State when setting the fees for immigration or nationality services under section 51 of the 2006 Act, to cross-subsidise between different in-country services in connection with immigration or nationality and between in-country and certain out-of country services in connection with immigration or nationality. This will mean that the Secretary of State can prescribe an amount which exceeds the administrative cost of the relevant service by taking into account the administrative cost of certain other services.
69. It does so by inserting a new subsection, (2A), into section 42 of the 2004 Act. By virtue of section 42(7) of that Act therefore, a draft of the regulations which are to be made under section 51(3) of the 2006 Act in reliance on this new power will be subject to approval by resolution of both Houses of Parliament.
70. [Section 20\(4\)](#) provides a power when setting the amount of a fee under section 1 of the Consular Fees Act 1980 in respect of certain visa services, in particular applications

*These notes refer to the UK Borders Act 2007 (c.30)  
which received Royal Assent on 30th October 2007*

for entry clearance, transit visas and certificates of entitlement to the right of abode in the United Kingdom, to set an amount which takes into account the costs of any in-country services in connection with immigration or nationality which are charged for under section 51 of the 2006 Act.

71. Again, it does so by inserting a new subsection, (3A), into section 42 of the 2004 Act. Therefore by virtue of section 42(7) of that Act, an Order in Council may not be made in reliance on this new power unless a draft of that Order has been laid before and approved by resolution of each House of Parliament.
72. In addition, by virtue of section 42(6) of the 2004 Act, an instrument, i.e. regulations or an Order in Council, may not be made in reliance on these new powers unless the Secretary of State has consulted with such persons as appear to him to be appropriate.