

EXPLANATORY MEMORANDUM TO
THE IMMIGRATION (EUROPEAN ECONOMIC AREA) (AMENDMENT)
REGULATIONS 2013

2013 No. 1391

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. **Purpose of the instrument**

- 2.1 These Regulations amend the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003, as amended) ('the 2006 Regulations') which transpose into UK law Directive 2004/38/EC ('the Directive') on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

- 2.2 The Regulations remove the requirement that certain documents issued under the 2006 Regulations be issued free of charge. The changes are consequential to changes introduced by the Immigration and Nationality (Cost Recovery Fees) Regulations 2013 (S.I. 2013/617) ('the Cost Recovery Regulations'), which specify the fees to be charged for applications for such documentation from 1st July 2013.

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

- 3.1 These Regulations have been made in reliance on the powers contained in section 2(2) of the European Communities Act 1972 and are subject to the negative resolution procedure. The negative resolution procedure is considered appropriate as the 2006 Regulations were themselves subject to the negative resolution procedure and the amending Regulations do not alter the substance of Acts of Parliament, impose or increase financial burdens, or concern provisions of particular importance such as might justify reliance on the affirmative resolution procedure.

4. **Legislative Context**

- 4.1 Directive 2004/38/EC sets out the rights of Union citizens and their family members to move and reside freely within the territory of the Member States. The 2006 Regulations, which transpose the Directive, set out the rights of nationals of the European Economic Area ('EEA') and Switzerland, their family members and those with derivative rights of residence, to be admitted to, and reside in, the UK and to apply for documentation which confirms their right of residence.

- 4.2 The Cost Recovery Regulations introduced a fee of £55 for documentation issued under the 2006 Regulations.

4.3 For this fee to come into effect, the 2006 Regulations require amendment to remove the requirement that documentation must be issued free of charge.

5. Territorial Extent and Application

5.1 This instrument applies throughout the United Kingdom

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

7.1 These Regulations remove from the 2006 Regulations the requirement that residence documents issued to nationals of the European Economic Area and Switzerland, their family members and those exercising related residence rights, be issued free of charge. The change is necessary to ensure the 2006 Regulations are consistent with changes to be introduced by Cost Recovery Regulations. From 1st July 2013, those Regulations introduce a fee of £55 for applications for such documents.

7.2 Paragraphs 7.9 to 7.12 of the Explanatory Memorandum to the Cost Recovery Regulations outline the policy background to the introduction of the above fees.

7.3 This fee will be introduced on 1st July 2013 following the coming into force of this instrument.

8. Consultation outcome

8.1 No consultation was undertaken for this instrument. Details of prior consultations on fees are set out in the Explanatory Memorandum to the Cost Recovery Fees.

9. Guidance

9.1 The Home Office will publish guidance on the effect of these changes.

The primary source of such guidance will be on the following website:
<http://www.ukba.homeoffice.gov.uk/>

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument. An Impact Assessment was prepared for the Immigration and Nationality (Cost Recovery Fees) Regulations 2013.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Home Office will closely monitor the impact of fees for applications made under the 2006 Regulations. The Home Office reviews fees and charges annually. The Home Office monitors applications trends and officials consider fee levels to ensure they do not adversely impact on wider government policy or the UK economy.

13. Contact

13.1 Deborah Morrison, European Union Free Movement Policy Team, Home Office, Tel: 0207 035 0655 or email: deborah.morrison@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.