

EXPLANATORY MEMORANDUM TO
THE IMMIGRATION, NATIONALITY AND PASSPORT (FEES) (AMENDMENT)
REGULATIONS 2024

2024 No. 398

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 The Minister of State for Legal Migration and the Border at the Home Office, Tom Pursglove MP, confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Paul Darling, Deputy Director - Special Projects, Fees and Income Planning, Corporate Enablers, Finance Directorate at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Milind Deshpande at the Home Office can be contacted with any queries regarding the instrument by email: feesandincomeplanning.requests@homeoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 These Regulations amend fees charged across visa, nationality, Border Force, and passport applications in order to increase the level of income generated through those fees. This supports the department's wider objective of achieving a substantially self-funding migration and borders system. It further supports an objective that the costs are met to a significant degree by contributions from the users of the system, reducing reliance on taxpayer funding.
- 4.2 These Regulations also introduce and amend certain fee provisions in order to enable changes made in the Immigration Rules through the Statement of Changes laid on 14 March, as well as to support wider policy objectives. These changes are necessary in order to ensure that fees can continue to be charged and other policies operationalised as intended.

Where does the legislation extend to, and apply?

- 4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland, and Northern Ireland. The provisions specified in regulation 1(4) additionally extend to the Isle of Man and those specified in regulation 1(5) additionally extend to the Bailiwicks of Jersey and Guernsey.

- 4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the same as its extent.

5. Policy Context

What is being done and why?

Fees related to immigration and nationality:

Increase to work and visit visas fees to align with previous changes

- 5.1 In Autumn 2023, the Home Office implemented a range of increases to immigration and nationality fees, including a 15% increase across work and visit visa fees. However, certain fees in those visa categories were only increased by 6-7% due to the maximum chargeable amounts ('fee maxima') that were in force at the time those increases were agreed cross-Government. The relevant fee maxima have now been increased following an amendment to the Immigration and Nationality (Fees) Order 2016, creating further flexibility to bring these fees into alignment with the wider 15% increase and to support Home Office funding objectives. These changes, equating to a further 8-9% fee increase, will be applied to fees for a 2-year Visit visa, increasing the current fee of £400 to £432, and in-country applications for a Skilled Worker/Global Business Mobility (Senior Managers & Specialists) visa for a period of more than 3 years, increasing the fee from £1,500 to £1,636. The Visit visa fee change will also apply to equivalent applications to enter the Isle of Man and the Bailiwicks of Guernsey and Jersey.

Increase in fees related to nationality applications and services

- 5.2 Several fees for administrative products and services related to nationality (for example, administration of a citizenship ceremony) have historically been set at the estimated unit cost of processing the relevant application. Following a recent refresh of unit costs, some of those fees are now set below cost. Accordingly, the department is increasing those fees to better reflect cost recovery and to support the continued sustainable funding of the system. In some cases, constraints posed by the relevant fee maxima limit the fee from being set at full cost recovery in these cases, the fee is instead increased to the maxima level.
- 5.3 The fee for attending a citizenship ceremony will increase from £80 to £130. The current fee of £372 to apply in-country and £388 to apply from out-of-country for a certificate of entitlement to prove a right of abode will increase to £550 for both types of applications. Further, the current fee of £372 for renunciation of British citizenship and reconsideration of a nationality application will increase to £450. The current fee of £250 for amendment to a nationality certificate and supply of a certified copy of a nationality certificate will increase to £400. The fee for confirmation of non-British nationality status (i.e. status or non-acquisition letter) will increase from £250 to £429.
- 5.4 The fee increases set out at 5.1, 5.2 and 5.3 will be effective from 9:00 a.m. on 10 April 2024. Details of the fees will be set out on GOV.UK, as well as in published transparency data alongside the estimated unit costs and relevant maxima.

Increase in fees for premium services provided by Border Force

- 5.5 These Regulations increase the fees for a number of optional premium services for expedited assessment of entry into the UK. Border Force provides these services at a range of locations in partnership with commercial providers, including an expedited process to conduct an immigration assessment for individuals entering the UK

through airports, and an immigration assessment away from the primary control point for passengers arriving by non-scheduled aircraft or cruise ship. This is the first time these fees have increased since 2019 and the increases reflect the distinguishable nature of services offered by Border Force and the benefits accrued by commercial organisations. These increases are within the maximum fee ranges set in the Immigration and Nationality Fees Order 2016.

- 5.6 The increases to fees will be effective from 1 July 2024 and are as follows –
- (i) Border Force fast-track services from £5.20 per passenger at Heathrow Airport and at £3 per passenger at any other airport, to a flat rate of £10 per passenger across all UK ports.
 - (ii) Immigration officer hourly rate from £57.33 per hour for other government departments (OGDs) to £72.27 per hour, to reflect updated costs. For non-OGD customers, the fee will increase from £77.40 per hour to £150 per hour.

Increase in fee to apply for limited leave to remain in the UK

- 5.7 A previous amendment to the existing regulations laid on 15 September 2023 implemented increases to fees across immigration and nationality routes, including a 20% increase to fees for entry clearance, settlement, and citizenship applications. As noted in the Explanatory Memorandum for that instrument, it had also been the intention to implement a 20% increase for Limited Leave to Remain applications (LLTR) which are currently charged at £1,048. However, it was not possible to do so at the time due to the need for further technical arrangements to be put in place to ensure that all applicants were able to pay the correct level of fee following the increase. It was also noted that the Government's intention was to implement that fee change once it was feasible to do so.
- 5.8 The technical issues arise in this regard as those applying for a fee waiver before the date of fee increase are entitled to pay a pre-increase fee if their fee waiver is refused after the date of fee increase, provided they make their immigration application within 10 working days of receiving the fee waiver decision. Necessary changes to the process have now been progressed to facilitate charging of the correct fee level to relevant customers. This process will be operational in July 2024. These Regulations, therefore, now increase the LLTR application fee from £1,048 by 20% to £1,258 to come into force from 9:00 a.m. on 24 July 2024. These Regulations further make a transitional provision in support of the eligible cohort of applicants as per their entitlement to pay the pre-increase fee.

A new fee for a contact point meeting under the Innovator Founder route

- 5.9 A reformed Innovator Founder route was introduced in April 2023 in the Immigration Rules (HC 1160) for a person seeking to establish a business in the UK based on an innovative, viable and scalable idea that they have generated or to which they have significantly contributed. Individuals applying for leave to enter or remain in the UK under this route are required to obtain an endorsement from an approved endorsing body (EB). Under the commercial arrangements with the EBs, there is a requirement for EBs to undertake a 'contact point' meeting with applicants after 12 and 24 months during the individual's period of leave on the route. The purpose of carrying out a contact point meeting between the applicant and the endorsing body is to assess progress against the applicant's business plan and it is one of the eligibility requirements in the Immigration Rules attached to their immigration status on this route. There is an existing fee of £1,000 for an endorsement. These Regulations set a

new fee of £500 as agreed in commercial contracts for carrying out each contact point meeting. This fee is, like the endorsement fee, directly payable to the related endorsing body and retained by them. It will come into force from 10 April 2024. The information about fees will be available on the websites of the endorsing bodies and further on GOV.UK for applicants under the Innovator Founder route.

- 5.10 These Regulations further provide a fee exception to allow individuals already on those routes, prior to the transformation of rules, to complete their journey to settlement without being required to pay the contact point meeting fee. These are generally the same cohort of applicants who are exempted from paying the endorsement fee due to having previously been endorsed by a legacy endorsing body. For those who are already on the route, the fee will be payable only by those who of their own accord choose to transfer from a legacy endorsing body to a new one (and not by those who transfer to a new endorsing body because a legacy endorsing body has chosen to cease to provide endorsement services). This is considered proportionate following the changes in requirements under Immigration Rules. Furthermore, individuals endorsed under the Global Entrepreneur Programme (run by the Department for Business and Trade) will also be exempt from payment of the contact point meeting fee in recognition of the contribution of this Government programme to business growth in the UK.

A new fee for Sponsor a Worker under sponsorship reformation plan

- 5.11 A new digital ‘Sponsor a Worker’ process is to be introduced under planned transformation of the sponsorship management system (SMS) for sponsored work routes. The plan is to initially trial the new process in Autumn 2024 in a private beta phase involving a small number of sponsors and to gradually roll out to more sponsors over the next 2 to 4 years. Until the new system and process fully replaces the current system of allocation and assignment of a Certificate of Sponsorship (CoS), both systems will co-exist during the transition period. Further details will be published in sponsorship guidance on GOV.UK closer to the time of the new system’s introduction.
- 5.12 To support this change, these Regulations set a fee for the Sponsor a Worker process payable from 10 September 2024 and make some further amendments in the related fee provisions to reflect the introduction of the new system. The new fee will be the same as the existing fee for issuance of a CoS i.e., £239 for Skilled Worker, T2 Minister of Religion, Global Business Mobility - Senior or Specialist Worker and International Sportsperson for more than 12 months period; and £25 for Temporary Work routes, the rest of the sub-routes within Global Business Mobility and International Sportsperson for a period of 12 months or less.

Re-branding of Shortage Occupation List as Immigration Salary List in Immigration Rules

- 5.13 The existing Appendix Shortage Occupation List to the Immigration Rules in respect of a Skilled Worker route is to be replaced and re-named as Appendix Immigration Salary List from 04 April 2024 (HC 590). These Regulations make the corresponding amendments in the description of the related fee provisions and elsewhere in the existing regulations as appropriate. These Regulations further provide a transitional arrangement considering the 3-month validity of a Certificate of Sponsorship issued before the date of this rule change. These amendments do not change fee levels or broader fee requirements.

Simplification of Immigration Rules: Members of Armed Forces

- 5.14 The Immigration Rules related to members of His Majesty's (HM) Armed Forces and their dependents are simplified by replacing the existing Appendix Armed Forces with two new appendices – Appendix International Armed Forces and International Civilian Employees, and Appendix HM Armed Forces. These Regulations amend the description and references to rules in the existing fee provisions to align to the amended rules which will be effective from 11 April 2024.

Simplification of Immigration Rules: Long Residence

- 5.15 On the simplification of rules, a new Appendix Long Residence is to be introduced replacing the current provisions in Part 7 of the Immigration Rules. In the amended rules there will be a provision to vary the application for settlement by the Secretary of State to consider a grant of LLTR in the UK, if the applicant does not meet the requirements of settlement but meets the requirements for LLTR. These Regulations provide a specified fee waiver with reference to the relevant paragraph in Appendix Long Residence so that a consideration to grant LLTR can be made without requiring the applicant to pay another fee for LLTR which will come into force on 11 April 2024. This new provision aligns to the existing provisions for variation in respect of applications under Appendix FM and Appendix Private Life.

Existing fee exception for a dependant of a refugee or a person with protection status

- 5.16 There are existing provisions to exempt the fee to apply for leave to enter or remain in the UK as a dependant of a refugee, or a dependant of a person granted humanitarian protection under the Immigration Rules. In the rule changes in March 2023 (HC 1160) the relevant paragraphs 352A to 352FJ of Part 11 of the Immigration Rules were replaced by introduction of a new Appendix Family Reunion (Protection). After the rule changes a fee exception for relevant leave to enter applications was amended (in SI 2023 No.1004) to reference the new appendix in the amended rules.
- 5.17 These Regulations now amend the definition in respect of the existing provision to exempt a fee for an application made in-country for leave to remain or indefinite leave to remain as a dependant of a refugee, or a dependant of a person granted humanitarian protection under Appendix Family Reunion (Protection) to the Immigration Rules. It is a technical amendment to ensure continued alignment to the amended Immigration Rules and does not represent a substantive change in policy.

A new fee waiver on amendment of rules under the Hong Kong British Nationals (Overseas) route

- 5.18 Under the Hong Kong British National (Overseas) route, leave to enter or remain in the UK is granted with a No Recourse to Public Funds (NRPF) condition. Following an amendment to the Immigration Rules on 4 March 2021 and Fees Regulations made on 6 April 2021, applicants on the route who are destitute or at imminent risk of destitution are able to apply to have this condition lifted so that they are able to access public funds.
- 5.19 A further change of policy is now being implemented in relation to these individuals, to introduce an affordability-based fee waiver for applications to extend leave on the HK BN(O) route for 30 months from 10 April 2024. Only individuals who have successfully applied to lift the NRPF condition will be eligible for such a waiver, with the policy rationale being that introduction of such a waiver reflects the fact that these individuals may face issues in being able to pay the fee if they have previously demonstrated that they are destitute or at imminent risk of destitution. Guidance will

be updated on the GOV.UK website by 10 April 2024 to inform customers of this change and the application forms will allow relevant customers to apply for this fee waiver. In addition, caseworker guidance will be updated to inform decision-makers of how to process the fee waiver.

Extension of an existing fee exception for Change of Conditions (CoC) applications to allow recourse to public funds

- 5.20 There is an existing provision at Table 9.9. of Schedule 2 of the regulations that exempts the fee that would otherwise be payable for an application for a change of the conditions associated with an individual's limited leave on the Family, Private life, Article 8 Human Rights and Hong Kong British Nationals (Overseas) routes. These applications are made in order to request that the No Recourse to Public Funds (NRPF) condition is lifted, on the basis that the individual is destitute or is at risk of imminent destitution. Following a legal judgment of 6 October 2023 (PA vs. SSHD), it has been confirmed that applications for a CoC to allow recourse to public funds can be considered in relation to limited leave on any immigration route, with that policy set out in updated guidance.
- 5.21 Given CoC applications are made on the basis that the individual requires access to public funds to avoid facing destitution, the policy intent is that any such application should be fee-free. The Secretary of State has waived the fee that would otherwise be payable for CoC applications made in relation to wider immigration routes, using the existing power at paragraph 13C of the regulations ('Power to waive fees in consequence of a decision of a court or tribunal'). An amendment is now made to the provision at Table 9.9 in Schedule 2 to extend and simplify the existing provision in order to reflect the change in policy. The amended provision will come into force from 10 April 2024 and updated guidance will be published on GOV.UK.

In respect of Passport Fees Regulations:

- 5.22 Fees for passport applications can only be set at or below the cost of processing and delivering the services associated with making an application, which includes the cost of processing applications, consular support overseas (including for lost and stolen passports), and the cost of processing British citizens at UK borders. Currently, income from passports is below the overall cost of operating these services, and the Home Office is increasing fees in order to move passport and associated operations closer to a cost recovery footing.
- 5.23 Accordingly, these amendments will increase fees for all standard and frequent traveller passport applications and priority services by circa 7.5%.
- 5.24 The current fees for a standard passport application made online in the UK will increase to £88.50 for adults and £57.50 for children, and for a standard application made by post in the UK to £100 for adults and £69.00 for children. Fees for applications made by members of HM Diplomatic Service, HM Government in an official capacity, HM Armed Forces and their dependants, will continue to be aligned with the UK online fees.
- 5.25 The existing fees for international postal and on-line applications as well as the fees for optional services for priority fast-track and fast-track collect, and digital premium service will also increase. Due to the number of possible application types, we cannot include all the new fees in this Explanatory Memorandum. Details of the new fees will be set out on GOV.UK.

- 5.26 There are no changes in respect of a standard passport application made by a prospective passport holder born on or before 2nd September 1929, for which there is no charge, nor to collective passports and the delivery charges specified in the Passport Fees Regulations 2022.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The Immigration, Nationality and Passport (Fees) (Amendment) Regulations 2024 (“these Regulations”) amend the Immigration and Nationality (Fees) Regulations 2018 (S.I. 2018/330) in respect of the fees chargeable for the applications and services related to immigration and nationality.
- 6.2 These Regulations also amend The Passport (Fees) Regulations 2022 (S.I. 2022/660), (“Passport Fees Regulations”) which sets the charging framework and individual fee levels for administering UK passport applications pursuant to sections 86 and 87 of the Immigration Act 2016 (c.19).

Why was this approach taken to change the law?

- 6.3 To make a change in the existing fees or to set a new fee it is required by law to amend the existing regulations. The charging powers that underpin the amendments to these Regulations are derived from Section 68 of the Immigration Act 2014. The immigration and nationality functions for which a fee is to be charged, as well as the maximum amounts that are able to be charged for each of those functions, are set out in the Immigration and Nationality (Fees) Order 2016. Many provisions in the Immigration and Nationality (Fees) Regulations (SI 2018/330) make direct reference to provisions in the Immigration Rules. With changes in Immigration Rules, those fee provisions also need to be amended to align with the amended Rules.
- 6.4 Changes to passport fee levels are required to be made through an amendment to the Passport Fees Regulations (S.I. 2022/660). Without an amendment to the Passport Fees Regulations, there will be no legal power to charge the new fees to applicants.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 In respect of the immigration and nationality fee changes, the Home Office conducted a targeted consultation in November and December 2013 on how its charging strategy works in practice, to help shape the approach to charging in the future. This in turn informed the development of the provisions at section 68(9) of the Immigration Act 2014, which set out the factors that the Secretary of State is permitted to take into account when setting fees. These include the cost of exercising the relevant function, the benefits that accrue to an individual as the result of a successful application, and the costs of exercising any other function in relation to immigration or nationality. These powers have since underpinned the approach to fees over the last decade, which includes the setting of fees above a cost recovery level in order to help meet costs within the wider migration and borders system, and to move the system onto a substantially self-funding basis. This approach continues to be reflected in these Regulations. Further changes made by these Regulations are consequential to changes in Immigration Rules and wider policy changes and, therefore, have not been the subject of a separate formal public consultation.

- 7.2 There was no public consultation in respect of the Passport Fees Regulations on the fees set out in these Regulations, in line with the approach taken to previous amendments to passport fee levels. Passport fees are set with reference to the provisions at sections 86 and 87 of the Immigration Act 2016, which permit fees to be set at a level to recover costs associated with passport and consular functions. As increasing passport fees to better reflect cost recovery is in line with these provisions as well as broader objectives relating to the funding of the migration and borders system, the department has not considered it necessary or proportionate to undertake a formal public consultation.

8. Applicable Guidance

- 8.1 The fee tables on the GOV.UK website will be updated to reflect the changes in these Regulations on the respective commencement dates. Information and guidance for members of the public and staff will also be updated and placed on the GOV.UK website when these changes take effect.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 There is no significant impact on business, charities or voluntary bodies of any of the measures set out as part of these Regulations.
- 9.2 These Regulations are therefore unlikely to have an impact on small or micro businesses as there is no overall significant impact on businesses.
- 9.3 The impact on the public sector is a significant increase in revenue, in the magnitude of hundreds of million over the next five years arising from the higher prices of visas, nationality products, and passports.
- 9.4 A full Impact Assessment has been prepared for the fee increases outlined in sections 5.1, 5.3, 5.8 and 5.23 alongside these Regulations.
- 9.5 Premium services are offered to passengers as a variation to our standard service in partnership with commercial providers. There is no assessed significant impact on business, charity, or voluntary bodies. While there may be an impact on the public sector of these changes, as an optional service these are not subject to a formal analysis of impact and so no Impact Assessment has been prepared.
- 9.6 The remaining changes are unlikely to have a significant impact on the public sector and so no Impact Assessment has been prepared.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring this legislation is that the fees are kept under regular review.
- 10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Tom Pursglove, MP, Minister of State for Legal Migration and the Border, has made the following statement:

“It is not appropriate in the circumstances to make provision for review. Fees are kept under regular review, and I am satisfied that these Regulations do not impact on small businesses.”

Nevertheless, the Home Office will continue to monitor the impact of these Regulations.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 This amendment increases a number of fees by an amount higher than the rate of inflation, which was estimated at 7.5% in the Office for Budget Responsibility's assessment of outturn CPI inflation in 2023, as set out in its November 2023 report. This includes the increases to work, visit, limited leave to remain, nationality fees and Border Force premium service fees set out at paragraphs 5.1 to 5.7 above. These increases are considered to be justified, respectively, due to the policy rationale of aligning with previous fee changes; to better reflect the estimated unit cost of processing the relevant application; and to generate further revenue through optional premium services.
- 11.2 These Regulations also depart from the usual convention that changes should come into force no earlier than 21 days after being laid in Parliament, in one respect. This relates to the amended fee description for applications on a Skilled Worker route in relation to a job on the Shortage Occupation List as stated in paragraph 5.13 above. This amendment is consequential to the change in Rules made by HC 590 to remove the existing Appendix Shortage Occupation List and replace it, with some changes to qualifying Standard Occupation Codes, with Appendix Immigration Salary List from 4 April 2024. At present, reduced fees are charged to those with a Certificate of Sponsorship (CoS) issued by an employer in relation to a job that is on the Shortage Occupation List. With the change in Rules, the intention is that these same reduced fees will be charged to those with a CoS for a job on the Immigration Salary List. If the relevant fee description is not updated at the same time that the new appendix comes into force, relevant applicants would be required to pay the higher fees that apply for a general Skilled Worker application, until such a time as the description is updated (which would be 10 April if the 21-day period was observed).
- 11.3 The Statement of Changes to the Rules through which the amendment to the relevant appendix was made was laid on 14 March, 21 days before the 4 April commencement date. The primary instrument for the policy is the Immigration Rules changes, which informs Parliament of these changes, and observes the 21-day period. This amendment to the existing regulations represents a technical change that gives effect to one element of the substantive policy change, and it was not possible to move the laying date for the Regulations forward in order to avoid the breach. This is principally because the Regulations also make amendments to passport fees, the 11 April commencement date for which is the earliest that those changes can be made. There is an imperative for the period between announcement and commencement of those changes to be as short as possible, due to the high probability of a surge of applications placing additional pressures on and posing risks to operational delivery. There was not an appropriate opportunity to include this change in an earlier SI, given the timelines for confirmation of details of the policy change. This change needs to be reflected in the Immigration and Nationality (Fees) Regulations as the changes to fee provisions cannot be made through the Statement of Changes to the Immigration Rules. For these reasons, and because the earlier commencement date is only to the benefit of relevant applicants, we consider the breach of the 21-day period in this case to be justified and proportionate.

11.4 The amendments to the Passport Fees Regulations are made under sections 86 and 87 of the Immigration Act 2016. Under section 93(2)(j) of the 2016 Act, regulations made under section 86 must be subject to affirmative resolution if they specify functions exercised by the Secretary of State in connection with applications for the issue of a passport or other travel document. Otherwise, regulations made under section 86 must be made using the negative procedure. Section 93(2)(j) is understood to provide for affirmative resolution for the specification of fees for functions, in respect of which no fees have previously been prescribed. This instrument amends the fees payable in relation to existing functions of the Secretary of State and does not specify any new functions. The instrument will therefore be subject to the negative procedure.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).