

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT IMMIGRATION AND NATIONALITY  
(FEES) (AMENDMENT) ORDER 2024

*Wednesday 30 October 2024*

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**The Committee consisted of the following Members:**

*Chair:* MR CLIVE BETTS

- |   |   |
|---|---|
| † Babarinde, Josh ( <i>Eastbourne</i> ) (LD)  | Morrissey, Joy ( <i>Beaconsfield</i> ) (Con)              |
| † Barker, Paula ( <i>Liverpool Wavertree</i> ) (Lab)  | † Quigley, Mr Richard ( <i>Isle of Wight West</i> ) (Lab) |
| † Barros-Curtis, Mr Alex ( <i>Cardiff West</i> ) (Lab)                                      | † Richards, Jake ( <i>Rother Valley</i> ) (Lab)           |
| † Botterill, Jade ( <i>Ossett and Denby Dale</i> ) (Lab)                                    | † Shanker, Baggy ( <i>Derby South</i> ) (Lab/Co-op)       |
| † Holmes, Paul ( <i>Hamble Valley</i> ) (Con)   | Simons, Josh ( <i>Makerfield</i> ) (Lab)                  |
| † Lam, Katie ( <i>Weald of Kent</i> ) (Con)   | Smart, Lisa ( <i>Hazel Grove</i> ) (LD)                   |
| † Macdonald, Alice ( <i>Norwich North</i> ) (Lab/Co-op)                                     | † Snowden, Mr Andrew ( <i>Fylde</i> ) (Con)               |
| † Malhotra, Seema ( <i>Parliamentary Under-Secretary of State for the Home Department</i> ) | Jonathan Edwards, <i>Committee Clerk</i>                  |
| † Mather, Keir ( <i>Selby</i> ) (Lab)   |   |
| † Minns, Ms Julie ( <i>Carlisle</i> ) (Lab)   | † <b>attended the Committee</b>                           |

## Third Delegated Legislation Committee

Wednesday 30 October 2024

[MR CLIVE BETTS *in the Chair*]

### Draft Immigration and Nationality (Fees) (Amendment) Order 2024

9.25 am

**The Parliamentary Under-Secretary of State for the Home Department (Seema Malhotra):** I beg to move,

That the Committee has considered the draft Immigration and Nationality (Fees) (Amendment) Order 2024.

It is a pleasure to serve under your chairship, Mr Betts.

The draft order will introduce a power to charge a fee for UK visa qualification equivalency and English language proficiency assessment services and sets the maximum fee that can be charged. Before I explain the services, I will provide the Committee with some background on the Home Office's fee structure.

In order for the Home Office to charge for immigration and nationality functions, the Immigration Act 2014 requires that fees must be set in secondary legislation. The Immigration and Nationality (Fees) Order 2016, an amendment to which we are discussing, sets out the functions for which a fee can be charged and sets a maximum fee that can be charged. Fee levels are then set in separate secondary legislation, the Immigration and Nationality (Fees) Regulations 2018, which is subject to parliamentary agreement through the negative procedure.

Fees for the services we seek to regulate are for assessments used on certain visa and nationality routes, which include family, skilled worker, settlement and student, where the requirements of that route require an applicant to demonstrate proficiency in the English language at a specified level, or that they have gained a qualification that is equivalent to one obtained in the UK. An applicant can demonstrate in a number of ways their proficiency in the English language, one of which is to use an academic qualification obtained in English awarded by an educational establishment outside the UK.

Where an applicant is seeking to demonstrate that they have gained a qualification that is equivalent to one obtained in the UK, or their proficiency in English language by using an academic qualification obtained outside the UK, those must be provided by Ecctis Ltd. Ecctis Ltd is our third-party supplier, which provides those services through a concession contract with the Home Office. It has been providing the services for more than a decade. This is not a new requirement being introduced for applicants on the work, study and nationality routes. The requirement for applicants to use those services has been specified in the immigration rules since 2008.

Where a visa or nationality applicant uses the services provided by Ecctis, they apply through its website and pay the appropriate fee. The outcome of the assessment can take in the region of 10 working days for the English language assessment, unless the applicant opts for an optional fast-track service, and about 30 working

days for the qualification equivalency assessment. The use of the assessment is not limited to the Home Office and the visa application.

The maximum fee we are setting in the draft order for the qualification equivalency and the English language proficiency assessment is being set at £400. That will allow the Home Office to set fee levels later this year at their current levels, which are £140 for the English language assessment and £210 for the qualification equivalency assessment. By setting the maximums above that level, we have a reasonable degree of headroom to adjust fees if, for example, there is an increase in the cost of providing the services.

I will now turn to the question of why the Home Office is bringing forward legislation to regulate the fees now, when they are already being charged and where neither the nature of the service itself nor the requirements in the immigration rules have changed. In the course of preparing for a procurement of the existing service earlier this year, however, the Department identified that the fees should have already been regulated due to the requirement to use the service in respect of applications on certain routes. Having identified that fact, the Department sought to legislate at the earliest opportunity; legislation had originally been considered for the summer, but was postponed due to the general election. That is why we are working to ensure that the fees have an appropriate statutory footing in future.

Hon. Members will be aware that the Secondary Legislation Scrutiny Committee drew special attention to the explanatory memorandum that was published alongside this order. In its report published on 10 October, the Committee raised concerns that the explanatory memorandum did not provide a clear and open statement of why this instrument was brought forward. I fully appreciate the importance of transparency in the Department's interactions with Parliament, including in the explanatory memorandums that it lays alongside legislation. I also recognise the Committee's view that a fuller explanation of the context of the legislation and the associated issue was required in this case, including the status of and approach to fees charged prior to the appropriate regulations' being brought into force.

As I set out in my response to the correspondence from the Committee on 15 October, in which I responded in some detail, some of which we are covering in my speech today, the treatment of those previously charged fees is also subject to a range of complex and ongoing considerations, which makes the position fundamentally uncertain at this stage. It includes exploration of the possibility of pursuing retrospective legislation that would put fees paid to date on a statutory footing.

Although I am not yet in a position to confirm the specific approach to be taken on this issue, the options under consideration have the potential to impact fundamentally the bearing of the previously charged fees. Given that uncertainty, I did not consider that it would be appropriate or helpful to go into further detail on this point in the explanatory memorandum, which is otherwise clear on the necessity of laying legislation to put the fees on a statutory footing and the rationale for the specific provisions being made.

I will, however, emphasise again that I take the Department's responsibilities in respect of parliamentary transparency seriously, and assure hon. Members that we are taking forward those considerations in respect of

previously charged fees as a priority. It is important to note that all fees paid were on receipt of services that were also received.

Finally, I would like to be clear that although the purpose of the order is to put the fees on a statutory footing, it is the first of two statutory instruments that need to be laid to ensure that future fees are charged for these services with the appropriate legislation in place. Our intention is, subject to the approval of this order by the House, to lay an amendment to the Immigration and Nationality (Fees) Regulations in December that will set fee levels.

9.33 am

**Paul Holmes** (Hamble Valley) (Con): It is a pleasure to serve under your chairmanship, Mr Betts. I welcome the Minister to her place. She will be delighted to know that we do not see the measure as contentious and we will not seek to divide the Committee today. The Opposition accept her reasons for why we have to make the changes today. We also accept that there will need to be retrospective legislation. I welcome her transparency on that matter.

The Opposition always accept that immigration regulations must be pragmatic and we welcome the measures today. May I just ask the Minister what mechanisms will be put in place for the proper scrutiny of the statutory instruments, further regulations and retrospective legislation that she might introduce? Can she say what mechanisms this House will have to scrutinise those? Can she also outline—we accept that at this stage she might not know because of parliamentary timetabling—when we might expect the Government to introduce the retrospective legislation that might be needed to amend the issues that she has outlined this morning?

Ministers should of course be assured that we will always, as the Opposition, look carefully at further proposals that the Minister may bring to the House. I also question whether it is Government policy to reverse or change the exemptions introduced by the previous Government, which have ensured that 300,000 fewer

would-be applicants will have come to this country through other routes. Do the new Government intend to make further changes within that scope?

Furthermore, I am concerned—even though it is not necessarily within the scope of this SI—that Ministers have publicly stated their intent to maintain an open-door policy for international students. Will the Minister outline the Government's position on international students going forward?

The Opposition welcome these pragmatic measures, and we look forward to supporting them in this Session.

9.35 am

**Seema Malhotra:** It may be more helpful for me to write to the shadow Minister on a number of his questions. However, I thank him for his constructive response in that this issue pre-dated the general election, and, for clarity, it is important that we move forward in the way that has been proposed.

It is important to say that, as I have outlined, we are still considering the best approach to take in relation to legislation or other responses to the issue retrospectively. As a result, it is a bit more challenging to announce a timetable for legislation when there is still an important process to go through, but I am happy to keep the shadow Minister informed—in writing, if need be.

It is worth saying a couple of points in response to the shadow Minister. Over the lifespan of this order, immigration fees will be kept under review and will be updated within the parameters that we have set. In the event that fee levels are changed, they will need to be approved by the House, and will be accompanied by an economic assessment. It is helpful to remind Members that this order will not put fees for the services on a statutory footing; it is the first of two pieces of required secondary legislation, the second being the amendment to the 2018 regulations that we expect to lay in December, subject to Parliament's approving this order. The regulations will set the fees for immigration and nationality-related services provided by Ecctis at the level that customers are currently charged.

*Question put and agreed to.*

9.38 am

*Committee rose.*





