

**EXPLANATORY MEMORANDUM TO**  
**THE IMMIGRATION SERVICES COMMISSIONER**  
**(DESIGNATED PROFESSIONAL BODY) (FEES) ORDER 2007**

**2007 No. 317**

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. **Description**

2.1 This Order sets the annual fee which must be paid by each designated professional body listed in section 86(1) of the Immigration and Asylum Act 1999 (the 1999 Act) to the Immigration Services Commissioner (the Commissioner).

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

3.1 The Order imposes fee increases which for two bodies are above the rate of inflation (for the other five bodies there is either a fee decrease or an increase below rate of inflation). The total fees to be collected under the Order have increased by 7.8% from the previous year. In the main this reflects an increase in the staff time allocated to complaints and meetings with the designated professional bodies by the Commissioner during the year. The Commissioner's most recent annual report and audited accounts are used to calculate the amount and cost of the regulatory activity she has devoted to each designated professional body; the fee is set to cover the costs incurred during the financial year prior to collection. The Institute of Legal Executives fee has increased by 218% (from £4,270 to £13,592) and the Law Society of Scotland fee by 39% (from £5,030 to £6,980) but these increases essentially reflect the increases in the number of complaints the OISC received against their members of 275% and 40% respectively.

4. **Legislative Background**

4.1 The Commissioner has a statutory duty to ensure that the designated professional bodies are providing effective regulation of their members in relation to the provision of immigration advice and services including the oversight of their investigation of complaints against their members. Under section 86(10) of the 1999 Act each designated professional body must pay to the Commissioner a fee to cover the costs incurred by the Commissioner in discharging her functions.

4.2 An Order has been laid under this power each year since 2002 to reflect the costs incurred by the Commissioner in the activities referred to in 3.1 above.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 The 1999 Act set up the Office of the Immigrations Services Commissioner (OISC) as an independent public body to regulate immigration advisers.

7.2 Members of certain professional bodies referred to in the 1999 Act as “designated professional bodies” may provide immigration advice or immigration services without registering with the OISC.

7.3 The Commissioner is nevertheless responsible for monitoring the regulation by the designated professional bodies of their members in their provision of immigration advice or immigration services and this includes her consideration of complaints against their members. Each designated professional body is required to pay a fee each year to cover the costs incurred by the Commissioner in discharging her functions.

7.4 Once the Commissioner has provided the Immigration and Nationality Directorate (IND) with cost information, IND writes to each designated professional body advising them of the fees each will have to pay to the Commissioner by the end of the financial year, and explaining the basis for those costs. Each body has been given the opportunity to comment to the Commissioner.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument because it only affects the seven professional bodies listed in the Schedule to this Order. Each organisation has already been advised in writing by IND of the fee for this year.

## **9. Contact**

9.1 Claire Downie at the Home Office, Immigration and Nationality Directorate, Tel: 020 8760 8414 or e-mail: [claire.downie@homeoffice.gsi.gov.uk](mailto:claire.downie@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.