

EXPLANATORY MEMORANDUM TO
THE IMMIGRATION SERVICES COMMISSIONER
(DESIGNATED PROFESSIONAL BODY) (FEES) ORDER 2008

2008 No. 505

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 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. While the total fees to be collected under this Order have actually decreased by 11.3% from the previous year, it nevertheless imposes fee increases above the rate of inflation for six of the seven designated professional bodies. While there are some new costs apportioned to the bodies resulting from work on legislation, in respect of the Legal Services Bill and legislative review for the Simplification Bill, this essentially reflects a more accurate and fairer assessment of the staff time utilised in respect of work for each of the designated professional bodies than in previous years when the total costs of dealing with complaints against their members were apportioned according to the number of complaints against members of each body, rather than by the time actually spent on complaints for each body as is now the case.

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 oversight of their investigation of complaints against their members. Under section 86(10) of the 1999 Act each designated professional body must pay 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 cost 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 Immigration 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 Border and Immigration Agency with cost information, the Agency 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 of those costs. Each body has been given the opportunity to comment to the Commissioner having been advised in writing by the Border and Immigration Agency on 31 January 2008 of the fee for this year.

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.

9. Contact

Kevin Spencer at the Border and Immigration Agency, Tel: 020 8760 8066 or e-mail: kevin.spencer@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.