
STATUTORY INSTRUMENTS

2016 No. 928 (L. 16)

TRIBUNALS AND INQUIRIES

The First-tier Tribunal (Immigration and Asylum Chamber) Fees (Amendment) Order 2016

Made - - - - *14th September 2016*
Laid before Parliament *15th September 2016*
Coming into force - - *10th October 2016*

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 42(1) and (2), 49(3) of the Tribunals, Courts and Enforcement Act 2007⁽¹⁾.

The Lord Chancellor has consulted the Senior President of Tribunals in accordance with section 42(5) of that Act before making this Order and has obtained the consent of the Treasury in accordance with section 42(6) of that Act.

Citation and commencement

1. This Order may be cited as the First-tier Tribunal (Immigration and Asylum Chamber) Fees (Amendment) Order 2016 and comes into force on 10th October 2016.

Amendment of the First-tier Tribunal (Immigration and Asylum Chamber) Fees Order 2011

2. The First-tier Tribunal (Immigration and Asylum Chamber) Fees Order 2011⁽²⁾ is amended as follows.

3. In article 2 (interpretation), insert at the appropriate place—

““appealable decision” means a decision from which there is a right of appeal to the Immigration and Asylum Chamber of the First-tier Tribunal”;

““respondent” has the meaning given by article 1(4) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014⁽³⁾

““the 2016 Regulations” means the Immigration and Nationality (Fees) Regulations 2016⁽⁴⁾.”.

4. In article 3 (fees for appeals)—

(1) 2007 c. 15; relevant amendments were made to section 42 by S.I. 2010/21 and S.I. 2013/2042.
(2) S.I. 2011/2841.
(3) S.I. 2014/2604.
(4) S.I. 2016/226.

- (a) in paragraph (3)(a), for “£80” substitute “£490”;
- (b) in paragraph (3)(b), for “£140” substitute “£800”; and
- (c) after paragraph (5) insert—

“(5A) Where a notice of decision against which the appellant is appealing contains more than one appealable decision, one fee is payable in respect of each appealable decision that is not exempt under article 5”.

5.—(1) In article 5 (exemption from fees)—

- (a) for paragraph (1) substitute—

“(1) No fee is payable for—

- (a) an appeal against a decision made under—

- (i) section 40 of the British Nationality Act 1981⁽⁵⁾ (deprivation of citizenship);
- (ii) regulation 19(3) of the Immigration (European Economic Area) Regulations 2006⁽⁶⁾ (exclusion and removal from the United Kingdom);

- (b) an appeal under section 82(1)(c) of the Nationality, Asylum and Immigration Act 2002⁽⁷⁾ (revocation of protection status).”;

- (b) after paragraph (1) insert—

“(1A) No fee is payable for a relevant appeal brought by an appellant who has been exempted from the requirement to pay an application fee under the 2016 Regulations in accordance with the following exceptions—

- (a) exception 4.5 (application by person physically present in UK but liable to immigration detention where the requirement to pay the fee would be incompatible with the person’s Convention rights) in Table 4 of paragraph (2) of Schedule 1 to those Regulations; or
- (b) exception 9.4 (specified human rights applications) in Table 9 of paragraph (2) of Schedule 2 to those Regulations.

(1B) For the purposes of this article, a “relevant appeal” is an appeal against a decision to refuse the application in respect of which the appellant was exempted from the requirement to pay a fee under the 2016 Regulations.”;

- (c) for paragraph (4) substitute—

“(4) No fee is payable where the appellant is—

- (a) a child for whose benefit services are provided by a local authority under—

- (i) section 17 of the Children Act 1989⁽⁸⁾ (provision of services for children in need, their families and others);

(5) 1981 c. 61; section 40 was substituted by section 4 of the Nationality, Immigration and Asylum Act 2002 (c. 41) and amended by section 56 of the Immigration, Asylum and Nationality Act 2006 (c. 13) and section 66 of the Immigration Act 2014 (c. 22).

(6) S.I. 2006/1003; regulation 19(3) was substituted by paragraph 6(b) of Schedule 1 to S.I. 2009/1117 and amended by S.I. 2013/3032.

(7) 2002 c. 41; section 82 was substituted by section 15(2) of the Immigration Act 2014 (c. 22), subject to savings and transitional provisions as specified in articles 9 to 11 of S.I. 2014/2771.

(8) 1989 c. 41; relevant amendments were made to section 17 by sections 7(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35), section 116(1) of the Adoption and Children Act 2002 (c. 38), section 53(1) of the Children Act 2004 (c. 31), and sections 8(2) and 24 of, paragraph 1 of Schedule 1 to, paragraphs 1 and 2 of Schedule 3 to, and Schedule 4 to, the Children and Young Persons Act 2008 (c. 23).

- (ii) section 22 of the Children (Scotland) Act 1995⁽⁹⁾ (promotion of welfare of children in need); or
- (iii) article 18 of the Children (Northern Ireland) Order 1995⁽¹⁰⁾ (general duty of authority to provide personal social services for children in need, their families and others);
- (b) a child for whom provision is being made by a local authority for the purpose of meeting the child’s needs under section 37 of the Social Services and Well-being (Wales) Act 2014⁽¹¹⁾ (duty to meet care and support needs of a child);
- (c) a person who has parental responsibility for a child described in subparagraph (a) or (b); or
- (d) a child for whom accommodation is provided under—
 - (i) section 20 of the Children Act 1989⁽¹²⁾ (provision of accommodation for children: general);
 - (ii) section 76 of the Social Services and Well-being (Wales) Act 2014⁽¹³⁾ (accommodation for children without parents or who are lost or abandoned etc.);
 - (iii) section 25 of the Children (Scotland) Act 1995 (provision of accommodation for children, etc.); or
 - (iv) article 21 of the Children (Northern Ireland) Order 1995 (provision of accommodation for children: general).”.

(2) The amendments made by paragraph (1) do not apply in the case of an appeal against a decision in relation to which the provisions mentioned in article 1(2)(e) of the Immigration Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2014⁽¹⁴⁾ are continued in effect by article 9 of that Order.

6. In article 9 (refunds), after paragraph (1) insert—

“(1A) For the purposes of this article an appeal is only “determined without a hearing” if—

- (a) the respondent has consented to, or has not objected to, the matter being decided without a hearing; or
- (b) the First-tier Tribunal has considered that it can justly determine the matter without a hearing in accordance with rule 25(1)(g) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014⁽¹⁵⁾.”.

(9) 1995 c. 36; section 22 was amended by paragraph 19 of Schedule 5 to the Local Government Act 2000 (c. 22), sections 2(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35), section 116(2) of, and paragraph 19 of Schedule 5 to, the Adoption and Children Act 2002 (c. 38), section 52 of the Children Act 2004 (c. 31), paragraphs 1 and 6 of Schedule 3 to the Children and Young Persons Act 2008 (c. 23), and section 99 of the Children and Families Act 2014 (c. 6).

(10) S.I. 1995/755 (N.I. 2); relevant amendments were made to article 18 by section 7(3) of the Children (Leaving Care) Act (Northern Ireland) 2002 (c. 11) (N.I.), and paragraph 1(1) of Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) (N.I.).

(11) 2014 anaw. 4; section 37 was amended by S.I. 2016/413.

(12) 1989 c. 41; section 20 was amended by paragraphs 54 and 59 of Schedule 3 to, and Schedule 5 to the Adoption and Children Act 2002 (c. 38), section 53(2) of the Children Act 2004 (c. 31), and paragraphs 1 and 28 of Schedule 2 to the Children and Families Act 2014.

(13) 2014 anaw. 4; section 76 was amended by S.I. 2016/413.

(14) S.I. 2014/2771; article 9 was substituted by S.I. 2015/371.

(15) S.I. 2014/2604.

Transitional provision: general

7. Subject to articles 5(2) and 8, the amendments made by this Order only apply in respect of an appeal to the First-tier Tribunal against a decision which was taken on or after the coming into force date of this Order.

Transitional provision: refunds

8. The amendments made by article 6 only apply where the appellant has provided a notice of appeal to the First-tier Tribunal on or after the coming into force date of this Order.

14th September 2016

Elizabeth Truss
Lord Chancellor
Ministry of Justice

We consent

14th September 2016

David Evennett
Andrew Griffiths
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the First-tier Tribunal (Immigration and Asylum Chamber) Fees Order 2011 ([S.I. 2011/2841](#)).

Article 4 increases the fees payable for appeals heard in the Immigration and Asylum Chamber of the First-tier Tribunal. Where an appellant consents to an appeal being determined without a hearing, the new fee is £490 (formerly £80). Where the appellant does not consent to the appeal being determined without a hearing, the fee is £800 (formerly £140).

Article 5 amends the scheme of fee exemptions available in the Immigration and Asylum Chamber, in particular, to reflect changes made to appeal rights by the Immigration Act 2014 ([c. 22](#)), and to introduce a new exemption for appellants who are excepted from the requirement to pay certain fees in respect of their immigration applications to the Home Office. It also provides that certain appeals that continue to be brought in accordance with provisions saved by the Immigration Act 2014 will remain subject to the former scheme of fee exemptions and remissions.

Article 6 clarifies the circumstances in which the Lord Chancellor may partially refund an appellant's fee where an appeal has been determined without a hearing.

Articles 7 and 8 provide that the changes made by this Order, aside from in relation to refunds, only apply to decisions that were taken on or after the coming into force date.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available at <https://legislation.gov.uk>.