



# Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

## 2004 CHAPTER 19

### *Fees*

#### **42 Amount of fees**

<sup>F1</sup>(1) .....

<sup>F1</sup>(2) .....

<sup>F1</sup>(2A) .....

(3) An Order in Council under section 1 of the Consular Fees Act 1980 (c. 23) (fees) which prescribes a fee in relation to an application for the issue of a certificate under section 10 of the Nationality, Immigration and Asylum Act 2002 (right of abode: certificate of entitlement) may prescribe an amount which is intended to—

- (a) exceed the administrative costs of determining the application, and
- (b) reflect benefits that in the opinion of Her Majesty in Council are likely to accrue to the applicant if the application is successful.

[<sup>F2</sup>(3A) The amount of a fee under section 1 of the Consular Fees Act 1980 in respect of a matter specified in subsection (3B) may be set so as to reflect costs referable to the exercise of any function in respect of which the Secretary of State has made an order under section 68 of the Immigration Act 2014.

(3B) The matters are—

- (a) the determination of applications for entry clearances (within the meaning given by section 33(1) of the Immigration Act 1971),
- (b) the determination of applications for transit visas under section 41 of the Immigration and Asylum Act 1999, or
- (c) the determination of applications for certificates of entitlement to the right of abode in the United Kingdom under section 10 of the Nationality, Immigration and Asylum Act 2002.]

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**Changes to legislation:** Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 42 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (4) Where an instrument prescribes a fee in reliance on this section it may include provision for the refund, where an application is unsuccessful or a process is not completed, of that part of the fee which is intended to reflect the matters specified in subsection <sup>F3</sup>... (3)(b).
- (5) Provision included by virtue of subsection (4)—
- (a) may determine, or provide for the determination of, the amount to be refunded;
  - (b) may confer a discretion on the Secretary of State or another person (whether in relation to determining the amount of a refund or in relation to determining whether a refund should be made).
- (6) An instrument may not be made in reliance on this section unless the Secretary of State has consulted with such persons as appear to him to be appropriate.
- (7) An instrument may not be made in reliance on this section unless a draft has been laid before and approved by resolution of each House of Parliament <sup>F4</sup>....
- (8) This section is without prejudice to the power to make an order under section 102 of the Finance (No. 2) Act 1987 (c. 51) (government fees and charges) in relation to a power under a provision specified in this section.

#### Textual Amendments

- F1** S. 42(1)-(2A) omitted (15.12.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#) , s. 75(3) , [Sch. 9 para. 73\(2\)](#) ; [S.I. 2014/2771](#) , art. 8(d) (with [art. 13](#) ) (as amended (6.4.2015) by [S.I. 2015/371](#) , arts. 1(3) , 8(5) )
- F2** S. 42(3A) (3B) substituted for s. 42(3A) (15.12.2014) by [Immigration Act 2014 \(c. 22\)](#) , s. 75(3) , [Sch. 9 para. 73\(3\)](#) ; [S.I. 2014/2771](#) , art. 8(d) (with [art. 13](#) ) (as amended (6.4.2015) by [S.I. 2015/371](#) , arts. 1(3) , 8(5) )
- F3** Words in s. 42(4) omitted (15.12.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#) , s. 75(3) , [Sch. 9 para. 73\(4\)](#) ; [S.I. 2014/2771](#) , art. 8(d) (with [art. 13](#) ) (as amended (6.4.2015) by [S.I. 2015/371](#) , arts. 1(3) , 8(5) )
- F4** Words in s. 42(7) omitted (15.12.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#) , s. 75(3) , [Sch. 9 para. 73\(5\)](#) ; [S.I. 2014/2771](#) , art. 8(d) (with [art. 13](#) ) (as amended (6.4.2015) by [S.I. 2015/371](#) , arts. 1(3) , 8(5) )

#### Commencement Information

- I1** S. 42 in force at 1.10.2004 by [S.I. 2004/2523](#) , art. 2 , [Sch.](#)

**Changes to legislation:**

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 42 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 8(1A)(1B) inserted by [2022 c. 36 s. 19\(2\)](#)
- s. 8(3A)(3B) inserted by [2022 c. 36 s. 19\(3\)](#)
- s. 8(6A)(6B) inserted by [2022 c. 36 s. 19\(4\)](#)
- s. 8(9A)(a) word inserted by [2022 c. 36 Sch. 3 para. 7\(b\)](#)
- s. 8(9A)(b) and word inserted by [2022 c. 36 Sch. 3 para. 7\(c\)](#)
- s. 8(9B) inserted by [2022 c. 36 s. 19\(6\)](#)
- Sch. 3 para. 3(3) inserted by [2023 c. 37 s. 10\(9\)\(a\)](#)
- Sch. 3 para. 8(3) inserted by [2023 c. 37 s. 10\(9\)\(b\)](#)
- Sch. 3 para. 13(3) inserted by [2023 c. 37 s. 10\(9\)\(c\)](#)