

CERTIFICATE OF APPROVAL FEE REPAYMENT SCHEME

1. Following the House of Lords judgment (Baiai v SSHD [2008] UKHL53), the UK Border Agency suspended the fee for Certificates of Approval with effect from 9 April 2009.
2. If you applied for a Certificate of Approval between 1 February 2005 and 8 April 2009, then you may be eligible to have the application fee returned to you if you can demonstrate that payment of the fee caused you real financial hardship.
3. This fee repayment scheme will run until **31 July 2010**. Requests for the return of the Certificate of Approval fee should be submitted as soon as possible on Form COAFR to:

**COA Repayment Scheme
NCC1, 9th Floor, Lunar House
40 Wellesley Road
CROYDON
CR9 2BY**

4. If you and your spouse/civil partner both applied for a Certificate of Approval, and believe you meet the criteria to have both fees repaid, you will each need to complete your own request form.

Eligibility for return of fee

5. In order to be eligible for return of the COA application fee you will need to demonstrate that paying the fee caused you and your prospective spouse/civil partner to suffer real financial hardship. You will need to demonstrate that this was the case at the time you paid the fee.

Financial hardship criteria

6. We consider that paying the COA fee may have caused you real financial hardship if for the 6 months prior to the date of your application for a COA you and your future spouse/civil partner meet the criteria in either (i) or (ii) below:
 - (i) you were both reliant on public funds for your support (e.g. both in receipt of benefits, such as income support, job-seekers' allowance or asylum support under Section 4 or Section 95 of the Immigration and Asylum Act 1999); or
 - (ii) averaged over the 6 months prior to your application, you had less than £500 in capital and had a total joint net income¹ per week that was less than:
 - £210 in 2004-5
 - £217 in 2005-6
 - £226 in 2006-7
 - £236 in 2007-8
 - £236 in 2008-9

¹ Figures are based on the DWP publication series *Households Below Average Income* available at http://research.dwp.gov.uk/asd/hbai_arc.asp Low income is defined as less than 60% of median household income. The threshold for 2008-9 is based on 2007-8 figures as HBAI figures for 2008-9 had not been published at the time of writing.

7. If one or both of you/your intended spouse/ civil partner had valid limited leave to enter or remain in the UK at the time of the COA application, and your conditions of leave required that you or your spouse/civil partner were able to support and accommodate yourself without access to public funds , UKBA will assume (in the absence of a satisfactory explanation and evidence to the contrary (see Question 10 on the COA fee return request form)) that paying the COA application fee did not cause you to suffer real financial hardship. This is because you were required to support and accommodate yourself in the UK and we consider it was reasonable to expect you to pay a COA fee in the event you wished to marry here.
8. If you do not fulfil the above criteria, but consider that paying the COA application fee caused you to suffer real hardship, you should set out at question 10 on the COA fee return request form why this was the case. You will need to provide satisfactory evidence of your and your intended spouse's/ civil partner's income at the time of the COA application.

Confirmation of identity

9. We will check your identity against our records. You should supply proof of identity as set out below.

Return of fee

10. If we agree you meet the hardship criteria, the fee will be returned to you as a cheque, made payable in the name of the applicant for the COA. If you have changed your name since you applied for a COA (for example, if you applied for a COA in your maiden name and changed your name after marriage) you will need to advise us of that and provide evidence in the form of your marriage certificate and a current identity document (see question 6 on the COA fee return request form).

Evidence to be submitted

11. To qualify for return of the COA fee, you will need to submit, in original form:

- Evidence of your identity (e.g. current passport, or photo driving licence, or identity card), AND
- (a) evidence (e.g. a Department for Work and Pensions (DWP) letter confirming payment of the benefit, or (until 28 February 2005) a benefit order book, or a letter from NASS/ UKBA) that you and your intended spouse/ civil partner were both reliant on public funds for support at the time of the COA application.

OR

- (b) evidence (e.g. P60 form(s) or wage slips covering the relevant period and if one of you was claiming benefits, evidence of that as set out in (a) above) that you and your intended spouse's/ civil partner's total joint net income averaged over the six months before you applied for a COA was less than the sum shown, in section 6 above. And

- your marriage/ civil partnership certificate (We will use this to confirm your original identity if you have changed your name since marriage).

12. If you do not already have a DWP letter confirming payment of the benefit, you should contact the office which dealt with your benefit, and that office will normally be able to issue a confirmation letter. If DWP are unable to provide a letter, please provide confirmation of this, and provide alternative evidence (e.g. bank statements) showing that at the time of the COA application you and your intended spouse/ civil partner relied on public funds for support.

Additional information to be provided

13. You will also need to tell us:

- (i) the date of your application for a COA, and your Home Office reference number if you know it
- (ii) the exact name you put on your application for a COA
- (iii) the full name of the person to whom the cheque returning the fee should be payable if your request for return of the fee is successful.

14. The form requires the original COA applicant and their spouse/ civil partner both to sign the declaration. However, if no marriage or civil partnership ceremony took place or if the relationship has subsequently ended (eg. by divorce), we recognise that the second signature may not be available. In this circumstance, the documentary evidence provided must still relate to the situation of both parties at the date of the COA application.

15. Please ensure the form is fully completed as we may not be able to process your request if information is not included.