EXPLANATORY MEMORANDUM TO

THE CONSULAR FEES ACT 1980 (FEES) (No. 2) ORDER 2005

2005 No. 3198

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before the House of Commons by Command of Her Majesty.

2. Description

The Order allows for additional matters to be taken into account in future when it comes to setting passport fees. The increased fees to be set (by a separate Order in Council) will reflect the costs of conducting interviews for all first time adult applicants within the fees for all adult applicants. The fees will also reflect the costs of issuing biometric passports which will be phased in over six months starting January 2006 within the fees for all passport applications made in the United Kingdom during that time. The fees that will be set in 2005 will also reflect costs to be incurred in 2006 to spread the significant increase in costs associated with introducing interviews for first time adult applicants and biometric passports over two financial years. This Order is needed as Treasury fees and charges guidance requires fees to be set to recover the cost of each separate service on an annual basis. As we are incorporating costs associated with first time adult interviews into all adult fees and biometric passport costs for the rollout period into all passport applicants' fees over a two year period this Order is required.

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

None

4. Legislative Background

4.1 The Order is to be made under section 102 of the Finance (No 2) Act 1987. Section 102(5) of that Act states that no Order shall be made unless a draft of the Order has been laid before, and approved by a resolution of, the House of Commons.

4.2 If the Order is approved, the Consular Fees Order 2005 will require amendment. The fee table contained in the Schedule to the Consular Fees Order 2005 already contains fees for the services listed in the Schedules to this Order. The amending instrument will therefore amend the fees but will not be introducing any new categories of fees. The amended fees will reflect the forecast costs of issuing passports in the United Kingdom during the financial years 2005/06 and 2006/07 (taking into account the costs of interviewing first time adult applicants and the costs of issuing biometric passports).

5. Extent

This instrument applies to the United Kingdom.

6. European Convention on Human Rights

Lord Triesman has made the following statement regarding Human Rights:

In my view the provisions of The Consular Fees Act 1980 (Fees) (No. 2) Order 2005 are compatible with the Convention rights.

7. Policy background

General

7.1 The events of 11 September 2001, other terrorist incidents and the significant increase in identity fraud have shown us that there is a need to tighten up on passport security. As a result of international dialogue and co-operation through ICAO (the International Civil Aviation Organisation) to increase document security and minimise risk of identity fraud, a decision was taken to include Biometric identifiers in *microchips* that will be incorporated into passports.

7.2 Additionally, a high street network of approximately 70 passport offices will be established to initially interview all first time adult applicants to establish entitlement to a UK passport. This category of applicant has been identified through extensive research as the high risk category for passport fraud. All high street network offices will open on the same date in October 2006.

7.3 The combined impact of these two separate initiatives which are aimed at countering fraud is a significant increase in the costs of providing passport services during financial year 2006/07. Rollout of biometric passports will begin in early 2006 with full rollout expected to be complete in June 2006. Once the rollout of biometric passports is complete the production of digital passports will cease but during the rollout period both biometric and digital passports will be issued.

Pricing policy

7.4 Introducing two key initiatives aimed at countering fraud in the same financial year has led to a significant increase in passport production costs in 2006/07. If the increase in costs were borne in year then adult applicants would face an average fee increase in the region of £30 from autumn 2006. Fee increases have to be implemented in the autumn, the UK Passport Service (UKPS) quieter period, to minimise the disruption caused by fee increases on our operations. This in year recovery would then result in fees being too high in 2007/08 thus requiring a fee reduction. To avoid this "see-saw" effect and taking into account that all passport fee applicants will benefit equally from these counter fraud initiatives, fees will be set to recover the estimated full costs of issuing passports during the financial years 2005/06 and 2006/07. This means that the UKPS will set fees to recover more than full cost in 2005/06 and less than full cost in 2006/07, achieving breakeven by March 2007. The effect of this on the individual passport applicant is that all passport fees will be set £5 higher in 2005/06 than they would be otherwise and the expected fee increase in 2006/07 for all passport applications will be £15 lower than it would otherwise have had to be. Breakeven will be effected over the 2 years. It is not anticipated that a fee increase will be required in 2007/08.

7.5 In order to ensure the smooth rollout of the biometric passports, the UKPS will have to manage the volume of biometric passports issued carefully during the anticipated 6 month rollout period in order to build up confidence in the technology. This will mean that during this rollout period biometric and digital passports will be identically priced which will cease when biometric passports are fully rolled out which is when digital passport production ceases. If biometric passports were priced so as to recover the costs during the rollout phase they would be priced around £14 higher than digital passports which would create a significant risk that take up would not be as high as we would wish. This would seriously jeopardise the effective rollout of the biometric passport within a six month period, therefore during this time applicants will have no choice as to whether they receive a biometric or digital passport.

7.6 The introduction of the high street network of approximately 70 offices will result in a significant increase in costs for the first time adult application due to paying for occupying the offices, fitting them out with furniture and IT systems and staffing them with appropriately trained staff. If these costs were passed on solely to first time adult applicants a fee increase for first time adult applicants of over £100 would be required. There is a strong likelihood that in future the UKPS will need to see all adult applicants in person to capture a second biometrics, as international standards on passport production are moving towards the inclusion of either a fingerprint or iris scan within passports. As adult renewal applicants would then be bearing some of the costs of the high street network the fee for those applicants would increase and subsequently as first time adult applicants are no longer solely bearing the costs of the high street network the fee for those applicants would reduce. The UKPS therefore proposes to charge the same fee to all adults on the basis that these security enhancements will ultimately benefit all passport holders by deterring passport and identity fraud.

8. Impact

A regulatory Impact Assessment has not been prepared for this Order as it has no impact on business, charities or voluntary bodies.

9. Contact

Mark Maguire, HQ Finance, UK Passport Service can answer any queries regarding the instrument.

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