EXPLANATORY MEMORANDUM TO

THE CONSULAR FEES ORDER

2009 No. 700

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. Purpose of the instrument

2.1 This Order is made to enable Her Majesty to (i) prescribe a fee for administering an application for an Emergency Travel Document, which will replace the existing Temporary Passport and Emergency Passport; (ii) prescribe a fee for providing a passport stamp in Arabic, as currently required by the Libyan authorities for entry into Libya; and (iii) increase existing consular fees, representing a whole range of services performed at Posts abroad.

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

3.1 This Order increases several fees for the provisions of consular services above the rate of inflation. The increases are necessary to take account of the increased cost of delivering these services, the additional costs of accepting payments for the first time by credit card and the devaluation of Sterling against other currencies. Further explanation of the fee increases is provided in section 7 below and in the attached Impact Assessment.

4. Legislative Context

4.1 This Order revokes and replaces the Consular Fees Order 2008.

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 this Order is not subject to Parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The Consular Fees Act 1980 provides that Her Majesty may by Order in Council prescribe the fees that can be levied for performance of consular services. Consular fees are levied so that the costs of providing such services

can be recovered from the customers that use them. This Order revokes and replaces the Consular Fees Order 2008 so that fees for new consular services can be introduced and fees for existing consular services increased, where this is necessary to take account of the increased cost of providing those services. Further explanation of the changes introduced by this Order is set out below.

7.2 Fees for legalisation services are being increased by 2.75%, in line with inflation, with the exception of applications for the standard legalisation service that are made outside the United Kingdom, but require processing in whole or in part in the United Kingdom. The fee for this service will be increased to £37, which reflects the increased postage costs that are intrinsic to the processing of such applications and thus not otherwise recoverable as 'direct costs'.

7.3 A new Emergency Travel Document is being introduced during the year 2009/10 to replace the Emergency Passport and the Temporary Passport. The Emergency Travel Document is a more secure document than its predecessors and will be more acceptable internationally. It is also correspondingly more expensive. The fee for administration of an application for an Emergency Travel Document will be £89.

7.4 A new fee of £11 is being introduced for provision of a passport stamp setting out the format of an Arabic transcript of the passport's details page. This stamp is part of the current entry requirements for Libya.

7.5 Fees for receiving applications for entry clearance to Commonwealth countries, British overseas territories and Crown Dependencies will continue to be charged in this Order under the Consular Fees Act 1980.

7.6 New fees are being introduced for the administration of entry clearance applications for visitors to the Crown Dependencies. Previously such clearances could be obtained only for periods up to 6 months from the date of issue. Fees will now also be charged for applications for entry clearance for periods from 6 months to 2 years (£215), between 2 and 5 years (£400) and between 5 and 10 years (£500) from the date of issue.

7.7 The structure of the existing fee for currency transfers is being changed, with the introduction of a new sliding scale of fees, which will vary according to the value of the sums being transferred. This sliding scale replaces the existing flat rate fee, and will thus be a fairer way to recover the costs of this service from the customer.

7.8 Where a payment is made by credit card to Her Majesty's Government and no fees prescribed under this Order are payable by the person making that payment, the credit card charges incurred by Her Majesty's Government will be recovered from the person making the payment.

7.9 Fees for administering applications for passports made outside the UK will be increased by 4.25%. There will be no increase to the fees for administration of passport applications made within the UK.

7.10 The fee for administering an oath of British Citizenship will increase by 60%, to be consistent with the fee charged by UKBA.

7.11 All consular fees other than those referred to above will be increased by 6%.

7.12 Where increases to fees have been calculated on the basis of a percentage, the new fee has been rounded to the nearest pound.

8. Consultation outcome

8.1 No consultation has been carried out in relation to this Order. Treasury rules require that the full cost of fee-bearing services is recovered through the fees charged, but impose no requirement to consult. The Order introduces no changes in policy and the fees are not considered to have a disproportionate impact on any particular stakeholders.

9. Guidance

9.1 Detailed information on consular services and the fees charged is provided on the www.fco.gov.uk website and hard copies of the fees table are on display at consular offices around the world. This information will be updated to take into account the new fees set out in this Order. A copy of the Impact Statement and Q&As will be provided at www.fco.gov.uk.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minor.

10.2 The impact on the public sector is that the costs to the public sector of providing consular services will continue to be recovered from the fees charged for those services.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The level of consular fees will be reviewed between September and November 2009. Further details of this review can be found in the attached Impact Assessment.

13. Contact

Pali Mangat at the Consular Directorate, Foreign and Commonwealth Office can answer any queries regarding the instrument
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