EXPLANATORY MEMORANDUM TO

THE PASSPORT (FEES) REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument sets the charging framework and individual fee levels for administering UK passport applications pursuant to Sections 86 and 87 of the Immigration Act 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The Joint Committee on Statutory Instruments may wish to note the following.

3.2 This statutory instrument is the first to be made under new charging powers set out in Sections 86 and 87 of the Immigration Act 2016. The 2016 Act requires Regulations, subject to the affirmative procedure, to set out the framework of passport-related services for which the Home Office will charge a fee, and negative Regulations to set out the individual fee levels that will be charged for each service. This Statutory Instrument combines both categories of Regulations in that it sets out both the functions for which a fee is payable and the fee to be paid. It is therefore subject to the affirmative procedure. Any amendments to the functions for which a fee is charged will be subject to the affirmative procedure and any amendments to the individual fee levels set out in the Schedule will be amended under the negative procedure.

3.3 Through this statutory instrument, the Home Office is introducing a new charging framework for United Kingdom passport applications which differentiates between applications made online and postal applications to reflect the difference in the cost of providing the service via each application type.

3.4 Fees for a standard passport application will rise by £12.50 for a postal application and by £3.00 for an online application. These fees reflect the cost of operating these services. Fees for associated premium services where an application is made in person will also rise in line with cost.

3.5 This Statutory Instrument introduces a new service known as the 'premium collect service' and sets out the associated fees. The premium collect service will allow a customer to apply for their passport online, and to then collect it at a convenient time to them at one of the seven passport processing centres across the UK. Appointments will be made available for the applicant to collect their passport at a time and location of mutual convenience. The Statutory Instrument also standardises the passport application types available to children and those born before 2 September 1929, aligning them to those already available to adults. This includes the introduction of

fees for jumbo passports (containing 50 pages) for children and adults for which the fees will be £10 above the relevant standard sized fee. This intends to ensure the same products are available for all applicants.

3.6 There is a new power in section 86(6) of the Immigration Act 2016 and this has been exercised by providing a fee waiver for the delivery of documents fee for certain members of the armed forces and the diplomatic service in certain circumstances. There is also discretion to waive fees when there is an emergency or crisis, as set out in Regulation 4.

3.7 All passport fees include a fee of £15.50 to cover the consular services fee, which is payable to the Foreign and Commonwealth Office.

3.8 Applications made overseas may be subject to other fees not set out in this instrument. This could include a fee to attend a Visa Application Centre as set out in the Immigration and Nationality Fees Regulations 2017.

Other matters of interest to the House of Commons

3.9 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland, and is not a financial instrument that relates exclusively to England, Wales and Northern Ireland.

4. Legislative Context

4.1 This instrument intends to set out the full framework for charging fees for the administering of a passport application including the premium services available.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the same as its extent.

6. European Convention on Human Rights

6.1 The Immigration Minister has made the following statement regarding Human Rights:

"In my view the provisions of the Passport (Fees) Regulation 2018 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 The purpose of this instrument is to set out the fees for all applications for a UK passport and the associated optional premium services.

7.2 Sections 86 and 87 of the Immigration Act 2016, permit the Secretary of State, when setting passport fees, to take account of: the function; any other function of the Secretary of State in connection with United Kingdom passports or other UK travel documents; and any consular function. In line with the 2016 Act, the fee levels set out in this Statutory Instrument will enable the Home Office to reflect in the passport fee the cost of the Primary Control Point function at the UK Border attributable to the UK passport holder, reducing the burden on the Exchequer.

7.3 The Home Office is also introducing a differential pricing framework for online and postal applications where customers have a choice about how to make their

application. With more modern processes, it has become cheaper and more efficient to process applications received digitally so the fees reflect the difference in the cost of processing applications under each arrangement. We recognise that those in protected groups may have difficulty completing an online application and as such we are constantly working to improve the accessibility of our systems and support arrangements to help people access the service online and minimise the impact on protected groups.

7.4 The introduction of a fee waiver will allow the Home Office to consider waiving a fee for a UK passport where there has been a crisis, defined in the regulations, or the UK Government has activated Exceptional Assistance Measures overseas. The waiver will only apply where the Home Office believes that a person has been directly affected and where they can meet any conditions relating to the specific incident which will be made known at that time. Consideration on whether a waiver should apply will be based on the individual circumstances of the event.

7.5 Fees specified in these regulations may also be waived as a result of a crisis or Exceptional Assistance Measures having been activated overseas by the UK Government. The circumstances in which these might apply, as set out in Regulation 4, are aligned with the Foreign and Commonwealth policy on providing assistance to British nationals overseas but will be subject to wider Government responses in the UK. If the criteria in Regulation 4 are met Her Majesty's Passport Office will consider whether a passport fee waiver should be activated and publish guidance on the application of any such waivers at the time that they are announced, covering such factors such as time limits and persons who may benefit for such a waiver.

7.6 Passports for those over 16 years of age will continue to have a validity period of 10 years while for those under 16 years of age the validity period will remain 5 years. Up to 9 months can be carried over from a previous passport and added to the term of a new document. In exceptional circumstances a passport of less than the standard validity may be issued e.g. multiple lost passports, where the applicant is unable to attend an interview or to meet other criteria. Where a passport of less than the standard period is issued, this will be communicated to the applicant together with information on what they need to do to receive a full validity passport next time.

7.7 The Home Office has operated a long standing policy to not charge veterans or those born before 2 September 1929 for an application for a standard passport. This policy still stands and as such no fees for the standard passport application have been included in this instrument. Those born before 2 September 1929 will continue to be charged for optional premium services and for passports containing 50 pages.

7.8 An applicant can request to upgrade their application from a standard passport to a premium service. The Home Office retains the right to decide whether to accept this request based on urgency of travel or for identification requirements and applicants are required to pay the difference in fee between a standard application and the premium service fee. For an adult online application the additional fee of £101.50 will be charged and for a paper postal application an additional £92 is required. For a child online application an additional fee of £102 is required and for a child paper postal application an additional £93.

Consolidation

7.9 This is the first instrument set under the powers in sections 86 and 87 of the Immigration Act 2016.

8. Consultation outcome

8.1 There was no public consultation on the fees set out in this instrument.

9. Guidance

9.1 The Home Office guidance to staff will be updated to reflect these changes. Guidance to general members of the public will also be published prior to new fees coming into effect.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has been prepared and will be laid with this Statutory Instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The change in fee structure aims to reflect the cost of processing UK passport applications via the different channels of applications.

12.2 The Home Office will closely monitor the impact of fees for the applications and services contained in this instrument. The Home Office reviews fees and charges for UK passport applications annually.

13. Contact

13.1 Chantal McEwan at the Home Office, Fees and Income Planning, Financial Planning Unit, Telephone: 07721237199 or email: chantal.mcewan@homeoffice.gsi.gov.uk can answer any queries regarding the instrument