EXPLANATORY MEMORANDUM

THE REGISTRATION OF OVERSEAS BIRTHS AND DEATHS REGULATIONS 2014

2014 No. 511

1. 1.1 This explanatory memorandum has been prepared by The Foreign and Commonwealth Office ("the FCO") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the Regulations is to modernise the process for registering births and deaths of British nationals overseas including the ability to centralise the FCO's registration service.

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

3.1 None.

4. Legislative Context

4.1 Registration of overseas births and deaths is currently governed by the Registration of Overseas Births and Deaths Regulations 1982 (S.I. 1982/1123) ("the 1982 Regulations"). The enabling powers for the 1982 Regulations contained in section 41(1) of the British Nationality Act 1981 ("the 1981 Act") have been amended by the Legislative Reform (Overseas Registration of Births and Deaths) Order 2014 ("the Legislative Reform Order") which comes into force on 1 April 2014. These Regulations replace the 1982 Regulations, update the registration system in line with electronic requirements and provide the ability for the FCO to centralise the system of registration.

5. Territorial Extent and Application

5.1 This Order extends to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

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

7.1 The Legislative Reform Order amends the 1981 Act to remove the general requirement that registration of births and deaths of British nationals overseas must be carried out overseas. Once this amendment has been brought into force and these Regulations come into force, the FCO will be able to establish a central consular birth and death registration unit in the UK, responsible for registering all consular births and deaths for British nationals overseas.

7.2 This unit will provide a more consistent customer service, be more effective in determining complicated nationality decisions, and provide a more modern online application and payment system, in line with the Government's Digital by Default Strategy. Another determining factor is that centralisation will free up consular staff in the FCO's overseas network, allowing them to focus more on their primary purpose of assisting British nationals overseas in distress, particularly the most vulnerable. This reflects the FCO's new Consular Strategy, which was launched in April 2013.

7.2 In addition these Regulations ensure that electronic registration can be operated by removing some of the more detailed provisions in the 1982 Regulations which are particular to paper registers.

7.3 Consular birth and death registration is not a legal requirement. It is an optional service available to those born overseas who could have an entitlement to British nationality at birth, and to British nationals who die overseas. There is no UK legal requirement for a consular birth or death registration. Consular birth or death registration does not confer British nationality.

- ***Consolidation.***

7.4 This Order revokes all the existing regulations and therefore is a consolidation of all overseas births and deaths registration provisions.

8. Consultation outcome

8.1 The FCO has consulted with the Home Office, and the General Register Offices for England & Wales, Scotland and Northern Ireland, who have no objection to the FCO centralising this service.

8.2 The FCO conducted a 12-week public consultation on the Legislative Reform Order from July to October 2013. It sent the consultation directly to 18 expatriate organisations around the world, and promoted the consultation on the gov.uk website, and the FCO's Travel Advice twitter account which has over 47,000 followers. There were seven responses to the consultation, and only three of these completed the survey's online questionnaire, all responding that they supported the proposed centralisation of this service. Some respondents did ask practical questions about how the new system would operate. The low response rate reflects the fact that this is a relatively low volume and non-essential service.

9. Guidance

9.1 The FCO will issue guidance to customers through the Gov.UK website.

10. Impact

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

10.2 An Impact Assessment was prepared for the Legislative Reform Order as part of the public consultation. No separate Impact Assessment has been prepared for these Regulations.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 In accordance with the Impact Assessment, the FCO will review the centralised operation in April 2017.

13. Contact

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