

**EXPLANATORY MEMORANDUM TO THE
CONSULAR FEES ACT 1980 (FEES) ORDER 2005**

2005 No.2112

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

2. Description

The Order allows fees to be levied for the services set out in the Schedule to the Order, namely the issuing of biometric passports by our overseas Posts. The fees to be set (by a separate Order in Council) will reflect the costs of issuing these passports over both financial years 2005/06 and 2006/07. The fees will take into account the costs of issuing biometric passports over two financial years in order to avoid fee fluctuations during the rollout of the biometric passport systems to our overseas Posts which will commence in autumn 2005 and will be completed by summer 2006. This Order is needed as Treasury accounting guidelines require that any fees set reflect the current cost of providing the service and not the anticipated cost. As we are taking into account the anticipated cost of the providing the relevant services in the financial year 2006/07 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 It is proposed that the Order 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 this Order is approved the Consular Fees Order 2005 (which has been submitted to the Privy Council for approval at its June meeting) will be amended. New fees will be inserted into the fee table contained in the Schedule to the Consular Fees Order 2005 which reflect the costs of issuing biometric passports in our overseas Posts during the financial years 2005/06 and 2006/07.

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) Order 2005 are compatible with the Convention rights.

7. Policy background

General

7.1 The events of 11 September 2001 and other terrorist incidents have highlighted the need to tighten up on document security and fraud. As a result of international dialogue facilitated by the International Civil Aviation Organisation (ICAO) a decision was taken to incorporate microchips containing biometric identifiers into passports.

7.2 A key driver behind the timing of the introduction of biometric passports is the legislation passed by the United States legislature in 2003. This requires countries wishing to continue to benefit from the US Visa Waiver Programme to begin issuing biometric passports by 26 October 2004. This deadline was subsequently extended by the US Government in August 2004, to 26 October 2005. This has the following implications for travellers to the US after 26 October 2005:

- i. Travellers without a digital machine-readable passport will not be admitted to the US without a visa.
- ii. Travellers with a digital machine-readable passport will be admitted to the US without a visa for the life of their passport, if the passport was issued prior to and including 26 October 2005.
- iii. Travellers with a digital machine-readable passport issued after 26 October 2005, will not be admitted to the US without a visa.
- iv. Travellers with a biometric digital machine-readable passport will be admitted to the US without a visa for the life of their passport.

7.3 The technical standards for biometric and machine readable travel documents are set by the ICAO, and the UK has played an active role in this process.

7.4 The Foreign and Commonwealth Office will stop issuing the current form of digital machine-readable passports early in financial year 2006/07, as it completes the phased rollout of new biometric passport systems to all passport issuing Posts abroad (currently 104 Posts).

7.5 The rollout of the new biometric passport systems will begin with Oslo in December 2005, following trials of the systems in Paris and Washington in autumn 2005. Rollout will proceed in January 2006 with Paris and Washington going live (these are two of our largest passport issuing Posts) followed by our smaller and medium sized passport issuing Posts. The process will complete in June 2006, with rollout to the remainder our largest passport issuing Posts in Hong Kong, Canberra, Wellington, Dusseldorf and Pretoria.

Pricing policy

7.6 Biometric passport fees need to be inserted into the fee table contained in the schedule to the Consular Fees Order 2005 (this Order has been submitted to the Privy Council for approval at its June meeting). The fees will be set at a level that will recover the full costs of providing these passports during both financial years 2005/06

and 2006/07 – i.e. fee income and costs will break-even over this period. These fees will be introduced at a limited number of Posts for a short period in the financial year 2005/06, following rollout of the new biometric passport systems. This means that during the 2005/06 rollout period the income received from issuing biometric passports is likely to be greater than the cost of issuing these passports. This approach has been taken for a number of reasons:

- i. The uncertainty of the precise timing of the rollout due to possible logistical difficulties and technical issues which may arise. If the timing for rollout changes as a result of any of the aforementioned the problems the costs of issuing biometric passports during the 2005/06 rollout period may change.
- ii. The average price (the price which takes into account the cost of issuing biometric passports in both financial years 2005/06 and 2006/07) will be used for a maximum of 4 months in 2005/06 (if Oslo is rolled out in December of this year), though in some Posts it may be used for a matter of days or weeks, and in others not at all.
- iii. If the average biometric price is used for both financial years, it eliminates any price fluctuations which may result from the uncertainties described above.
- iv. Customers who delay renewing a passport until such a time as they can purchase a biometric passport, will not be caught out by an unexpected increase in price, if they are buying from a Post that is at the end of the rollout process (i.e. after 1 April 2006).

7.7 Customers who purchase biometric passports from our overseas Posts in the financial year 2005/06 will pay £2.50 more for an adult passport, £3.78 more for a jumbo passport and £3.69 more for a child passport, than they would have done if costs were not averaged over two financial years. Customers who purchase biometric passports from our overseas Posts in the financial year 2006/07 will pay 59 pence less for an adult passport, 65 pence less for a jumbo passport and 63 pence less for a child passport, than they would have done if the costs were not averaged over two financial years.

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

David Popplestone, Consular Directorate, Foreign and Commonwealth Office can answer any queries regarding the instrument.

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