

EXPLANATORY MEMORANDUM TO
THE CONSULAR FEES (AMENDMENT) ORDER 2019
2019 No. 182

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign & Commonwealth Office.

2. Purpose of the instrument

- 2.1 The purpose of the instrument is to amend the Consular Fees Order 2012 (‘the 2012 Order’) to introduce a new fee for issuing multilingual standard forms and also to clarify the position in relation to the charging of direct costs, such as courier fees, to be charged for the processing and provision of emergency travel documents and emergency passports.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is not subject to parliamentary procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is all of the United Kingdom.
4.2 The territorial application of this instrument is all of the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is not subject to parliamentary procedure, no statement is required.

6. Legislative Context

- 6.1 The 2012 Order prescribes the fees to be charged for the provision of consular services. This instrument amends the 2012 Order.
6.2 In particular, this instrument introduces a new fee for issuing multilingual standard forms in order to implement Article 11 of Regulation (EU) 2016/1191 (‘the Simplification Regulation’) of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R1191>). Article 11 requires Member States to ensure that the fee for obtaining a multilingual standard form does not exceed the production costs of the form itself, or of the public document to which it is attached, whichever is the lower. This provision comes into

force on 16th February 2019, when the UK will still be a member of the European Union.

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 by persons authorised to exercise consular functions, or functions in the United Kingdom which correspond with consular functions. The 2012 Order prescribes such fees. It is not permissible to charge fees for consular services that are not set out in the 2012 Order, which is why it is necessary to amend it through legislation.
- 7.2 This instrument prescribes the fee for issuing multilingual standard forms, which is a new consular service. These forms are template translations of public documents, which British Nationals may find beneficial in their dealings with the public bodies of other EU states. The Foreign and Commonwealth Office will issue these multilingual standard forms, if requested, where a consular officer has registered the birth or death of a British National overseas, or if a British National was married or entered into a civil partnership in a ceremony solemnised at a British Embassy, High Commission or Consulate by a registration officer.
- 7.3 The UK is required to introduce this service by the Simplification Regulation.
- 7.4 This instrument also amends the 2012 Order, to clarify the position in relation to the charging of direct costs for the processing and provision of Emergency Travel Documents and Emergency Passports, such as the cost of delivery of documents to an agreed address.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to the UK's withdrawal from the European Union.
- 8.2 The continued implementation of the Simplification Regulation will be considered when the United Kingdom ceases to be a member of the EU or after the expiry of any implementation period.

9. Consolidation

- 9.1 There is no consolidation done by this instrument.

10. Consultation outcome

- 10.1 No consultation has been carried out in relation to this instrument. HM Treasury rules require that the full cost of fee-bearing services is recovered through the fees charged, but impose no requirement to consult. The instrument introduces no material change in policy and the fees are not considered to have a disproportionate impact on any particular stakeholders.
- 10.2 The Foreign and Commonwealth Office are working with other UK public bodies who will issue multilingual standard forms, such as the General Register Office (England and Wales), to implement the Simplification Regulation consistently.

11. Guidance

- 11.1 Detailed information on consular services and the fees charged is provided on the gov.uk website at <https://www.gov.uk/government/collections/consular-fees> and hard copies of the fees table are on display at consular offices around the world.

12. Impact

- 12.1 There is no, or no significant impact, on business, charities or voluntary bodies.
- 12.2 There is no, or no significant impact, on the public sector. The costs to the public sector will continue be recovered from the fees charged for consular services.
- 12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant impact on the private or voluntary sectors is foreseen.

13. Regulating small business

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

14. Monitoring & review

- 14.1 The level of consular fees will be reviewed again during the course of 2019.
- 14.2 The continued implementation of the Simplification Regulation will be considered when the United Kingdom ceases to be a member of the EU or after the expiry of any implementation period.

15. Contact

- 15.1 Barry Fines at the Foreign and Commonwealth Office, Telephone: 020 7008 4962 or email: barry.fines@fco.gov.uk can be contacted with any queries regarding this instrument.
- 15.2 Philippa Makepeace, Deputy Director for Consular Assistance at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Mrs Baldwin, Minister of State at the Foreign and Commonwealth Office and the Department for International Development, can confirm that this Explanatory Memorandum meets the required standard.