

**EXPLANATORY MEMORANDUM TO**  
**THE REGISTRATION (ENTRIES OF OVERSEAS BIRTHS AND DEATHS)**  
**(AMENDMENT) ORDER 2018**

**2018 No. 522**

**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 The Government wants to correct a drafting error in a 2017 Order relating to the issue of certificates from birth and death registrations made overseas. The Registration (Entries of Overseas Births and Deaths) (Amendment) Order 2017 (S.I. 2017/1279) (“the 2017 Order”) amended the Registration (Entries of Overseas Births and Deaths) Order 1982 (S.I. 1982/1526) (“the 1982 Order”) to update charging powers for certificates from consular registration records held by the Registrar General for England and Wales. A typographical error in the 2017 Order meant the wrong provision in the 1982 Order was updated and this Order corrects that.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument corrects an error on which the Home Office issued a memorandum to the Committee on 5th February 2018. The Home Office has therefore decided to apply the free issue procedure in relation to this instrument for recipients of the 2017 Order.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The Immigration Act 2016 (c. 19) inserted provisions into the main legislation governing registration to allow for regulations to be made to set fees for registration services. The 2017 Order amended the 1982 Order to reflect those changes. One of those amendments contained a typographical error. This instrument corrects the typographical error in the 1982 Order.

**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 United Kingdom.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to 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 registration of births and deaths of British nationals overseas is governed by the Registration of Overseas Births and Deaths Regulations 2014 (“the 2014 Regulations”). Under these regulations, copies of the registrations made overseas are sent to the Registrar General for England and Wales (the RG). Where the information provided in the registration shows a connection to Scotland or Northern Ireland, the RG forwards a copy of the registration to the Registrar General for Scotland or Northern Ireland as appropriate. Certificates may then be obtained from the appropriate Registrar General for a fee.
- 7.2 The provisions for issuing and charging for birth and death certificates in England and Wales are contained in the Births and Deaths Registration Act 1953 Act (“the 1953 Act”). The 1982 Order modifies the 1953 Act, in particular section 30(2) and 33(1), so that the provisions to issue and charge for certificates relating to births and deaths registered in England and Wales apply to the overseas registrations held by the RG. The charging powers in the 1953 Act are now contained in section 38A of the 1953 Act, following changes introduced by the Immigration Act 2016. The 2017 Order made amendments to the 1982 Order to apply these charging powers, enabling the same charging provision to be in place for overseas certificates as is in place for certificates issued from England and Wales registers.
- 7.3 In order for the charging powers to be properly updated, the 1982 Order and the 2014 Regulations need to work together. The 1982 Order needs to reference the legislation which provides for certificates to be issued from consular registration records held by the RG, namely the 2014 Regulations. The 2017 Order amended the 1982 Order to include the 2014 Regulations as legislation to which the 1982 Order applies. The 2017 Order contained a typographical error which resulted in a reference to the 2014 Regulations being inserted into the wrong provision of the 1982 Order. This Order removes that insertion and inserts a new reference to the 2014 Regulations in the correct place in the 1982 Order.

## **8. Consultation outcome**

- 8.1 The Home Office has consulted with the Foreign and Commonwealth Office as well as the National Records of Scotland and the General Register Office for Northern Ireland, who have no objection.

## **9. Guidance**

- 9.1 As the instrument does not make any changes to current charges for registration services, no new guidance is required.

## **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 not been prepared for this 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 As the instrument makes no substantive changes, no monitoring is planned.

**13. Contact**

13.1 Alison Tighe at the General Register Office, part of Her Majesty's Passport Office, Smedley Hydro, Trafalgar Road, Southport. PR8 2HH; Telephone: 0151 471 4293; Alison.Tighe@gro.gsi.gov.uk can answer any queries regarding the instrument.