

2018

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**AUSTRALIAN PASSPORTS (APPLICATION FEES)  
AMENDMENT DETERMINATION 2018**

EXPLANATORY STATEMENT

(Circulated by authority of the Minister for Foreign Affairs, Senator the Hon Marise  
Payne)

# **AUSTRALIAN PASSPORTS (APPLICATION FEES) AMENDMENT DETERMINATION 2018**

## **Outline**

The *Australian Passports (Application Fees) Amendment Determination 2018* (the Amendment Determination) amends the *Australian Passports (Application Fees) Determination 2015* (the Passport Fees Determination) to increase the fees for travel documents.

## **Financial impact**

Under provisions in force in sections 5 and 6 of the Passport Fees Determination immediately prior to the commencement of the Amendment Determination, travel document fees would have increased on 1 January 2019 by the indexation factor specified in section 7 of the Passport Fees Determination. The indexation factor is based on the All Groups Consumer Price Index (CPI) as published by the Australian Bureau of Statistics.

The Amendment Determination increases fees beyond the indexation factor that would have applied on 1 January 2019:

- by \$6 for an Australian passport that is valid for up to 10 years and issued to an adult or to a child who is 16 or 17
- by \$3 for all other travel documents
- by \$25 for priority processing and for the surcharge payable in respect of adult applications made overseas
- by \$10 for the surcharge payable in respect of child applications made overseas

The financial impact of these additional increases will be to generate additional expected revenue of around \$80.2 million over the forward estimates.

The Amendment preserves automatic annual application of the indexation factor in future years.

## **Regulatory impact**

The Amendment Determination will impose no additional regulatory impact on Australian citizens or businesses. The Office of Best Practice Regulation has advised that no Regulation Impact Statement is required (reference number 24659).

## **Consultation**

The Department of Finance was consulted on the fee increases for Australian travel documents.

## ***Australian Passports (Application Fees) Amendment Determination 2018***

### **Preliminary**

#### **Notes on Clauses**

#### **Clause 1 - Name of determination**

1. Clause 1 provides that the name of this determination will be the *Australian Passports (Application Fees) Amendment Determination 2018* (Amendment Determination).

#### **Clause 2 - Commencement**

2. Subclause 2(1) provides that the Amendment Determination will commence on 1 January 2019.
3. Subclause 2(2) provides that any information in column 3 of the table in subclause 2(1) is not part of the Amendment Determination. However, information may be inserted in this column, or information in it may be edited, in any published version of this Determination.

#### **Clause 3 - Authority**

4. The *Australian Passports (Application Fees) Act 2005* (Passport Fees Act) empowers the Minister to impose, as taxes, fees for Australian travel documents and related purposes. Section 8 gives the Minister the authority to specify matters provided in the Passport Fees Act in a determination. The *Australian Passports (Application Fees) Determination 2015* (Passport Fees Determination) supports the operation of, and provides functional detail to, the Passport Fees Act.

#### **Clause 4 - Schedules**

5. Clause 4 provides that each instrument specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule has effect according to its terms.

## Schedule 1—Amendments

### *Australian Passports (Application Fees) Determination 2015*

#### Item 1 – Sections 5 and 6 (repeal and replacement)

1. Section 5 specifies application fees for Australian travel documents.
2. Section 6 specifies additional fees in relation to Australian travel documents.
3. This amendment repeals both sections. They contained lengthy, redundant provisions relating to fees charged in past years that were no longer applicable.
4. For application fees for all travel document types in the table in subsection 5(3), except for provisional travel documents, the replacement subsection 5(1) sets 2019 as the base year for future indexation. Application fees are updated annually on 1 January to reflect indexation based on the All Groups Consumer Price Index (CPI indexation).
5. Subsection 5(2) provides that provisional travel documents will not be subject to indexation. This is because there is no fee for these documents.
6. The table in subsection 5(3) sets out the fees for specific travel documents and circumstances.
7. Column 1 differs from column 1 of the repealed subsection 5(3) only in that items have been renumbered and that items related to Australian frequent traveller passports no longer appear, given that this type of travel document has not been offered since 30 November 2017.
8. The amounts of the fees in Column 2 of the table in subsection 5(3) were derived by applying the following increases to the corresponding fees that applied in 2018:
  - a. the indexation factor which, but for the Amendment Determination, would have applied from 1 January 2019, and
  - b. the following additional increases:
    - i. \$6 for Australian passports that are valid for up to 10 years and issued either to an adult or to a child who is 16 or 17 (except for travel documents specified in later parts of column 1)
    - ii. \$3 for all other travel document types
    - iii. no increase for observations in travel documents (item 7) or for provisional travel documents (item 11).
9. Subsection 6(1) sets out the annual CPI indexation of additional fees. For fees in respect of items 2 and 3 in subsection 6(3) which may be payable in addition to an application fee for an Australian travel document, subsection 6(1) sets 2019 as the base year for future indexation. Application fees are updated annually on 1 January to reflect CPI indexation.

10. The table in subsection 6(3) sets out the fees that apply in addition to an application for an Australian travel document.
11. Column 1 is identical to column 1 of the repealed subsection 6(3). To avoid the need for consequential amendments to the *Australian Passports Determination 2015*, items have not been renumbered to start at 1. For the same reason, subsections in section 6 have not been renumbered to include a subsection 6(2).
12. The amounts of the additional fees in Column 2 of the table in subsection 6(3) were derived by applying the following increases to the corresponding fees that applied in 2018:
  - a. the indexation factor which, but for the Amendment Determination, would have applied from 1 January 2019, and
  - b. the following additional increases:
    - i. \$25 for priority processing and for the surcharge payable in respect of adult applications made overseas
    - ii. \$10 for the surcharge payable in respect of child applications made overseas

# STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

## ***Australian Passports (Application Fees) Amendment Determination 2018***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in Section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the instrument**

The *Australian Passports (Application Fees) Amendment Determination 2018* (Amendment Determination) amends the *Australian Passports (Application Fees) Determination 2015* (Passport Fees Determination) to increase the fees for travel documents.

### **Human rights implications**

The Amendment Determination engages the right to freedom of movement as set out in Article 12 of the International Covenant on Civil and Political Rights (ICCPR).

### ***Right to freedom of movement***

Article 12 of the ICCPR protects the right to freedom of movement: specifically, it states that everyone shall be free to leave any country and that no-one shall be arbitrarily deprived of the right to enter their own country.

The Passport Fees Act and the Passport Fees Determination engage the right to freedom of movement in Article 12 of the ICCPR. This is because the imposition of fees to obtain an Australian travel document could limit the freedom of an Australian citizen to leave Australia, as found in Article 12(2) of the ICCPR.

Passport fees are subject to automatic annual CPI indexation. From 1 January 2019, under the Amendment Determination, fees will increase above CPI by the following amounts:

- by \$6 for an Australian passport that is valid for up to 10 years and issued to an adult or to a child who is 16 or 17
- by \$3 for all other travel documents
- by \$25 for priority processing and for the surcharge payable in respect of adult applications made overseas
- by \$10 for the surcharge payable in respect of child applications made overseas.

These increases, particularly when viewed in the context of the costs of overseas travel generally, are unlikely to restrict the freedom to leave one's own country protected by Article 12(2). In addition, sections 27 and 28 of the *Australian Passports Determination 2015* (Passports Determination) provide for the waiver and refund of fees in certain circumstances, including on compassionate grounds. Further, a decision not to waive or refund a fee under sections 27 and 28 of the Passports Determination is reviewable under paragraphs 48(i) to (k) of the Act.

As such, the Amendment Determination is consistent with Australia's obligations in relation to freedom of movement under international law.

## **Conclusion**

The Amendment Determination is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.