

STATES OF JERSEY



‘USER PAYS’ CHARGES: IMMIGRATION FEES

**Lodged au Greffe on 17th November 2009
by the Minister for Home Affairs**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 24th June 2003 in which they agreed that no new ‘User Pays’ charges should be introduced without the prior approval of the States; and –

to agree that a new ‘User Pays’ charge should be introduced as soon as practicable to be levied by the States of Jersey Customs and Immigration Service for providing services to overseas nationals who are subject to Immigration control in respect of the grant of leave to remain in the Bailiwick of Jersey, or the variation of that leave after the entry of such persons.

MINISTER FOR HOME AFFAIRS

REPORT

Background

'In principle' approval of the States Assembly is sought by the Minister for Home Affairs in advance of making the necessary Order to introduce a new 'User Pays' charge for providing services to overseas nationals, who are subject to Immigration control, in respect of the grant of leave to remain in the Bailiwick of Jersey, or the variation of that leave after the entry of such persons.

During the course of 2003 and 2004 the UK Home Office introduced charges for a range of immigration and nationality applications. This sought to ensure that those who use and benefit from the UK's immigration service met the cost of delivering administrative costs (including staffing and overhead costs) of processing applications to the point of making and conveying a decision.

A further review published in July 2006 stated that the Home Office should charge a fair and economic rate for their services but also one that reflected the true operational costs of immigration systems.

The UK charges also reflect the value to the migrant of the immigration permission that is granted. For example, an overseas national who successfully applies for 'indefinite leave to remain' is in fact then able to live in the UK and Islands without restriction and is free to access the labour market. It goes without saying that for the migrant this is a significant step which confers entitlements which are highly prized.

The vast majority of applications in the UK are made by post and a significant premium is charged for anyone that wishes to make an application in person at a Public Enquiry Office (PEO). The 2009/2010 UK postal fees are shown below with the PEO fees in brackets –

- (i) Application for leave to remain, or variation of leave to a specified date, work permit holder or work permit dependant: £400* (£600)
- (ii) Application for leave to remain, or variation of leave to a specified date, others: £465* (£665)
- (iii) Application for leave to remain for an indefinite period: £820* (£1,020)
- (iv) Application for endorsement of existing leave to remain in a new passport: £165 (£515)

* An additional £50 for each dependant applied for at the same time is also payable.

The Isle of Man introduced immigration fees equivalent to the 2008/2009 UK Postal Rate for the first time in June 2009, and the Guernsey Customs and Immigration Department intend to recommend implementation of a charging regime in due course.

Indefinite leave to remain, granted in Jersey, is transferable to the UK, Isle of Man and Guernsey, and vice versa. There would therefore appear to be a clear disparity between the jurisdictions, given that the UK and Isle of Man levy a significant charge for a service which Jersey currently provides for free.

Legal basis

Section 5 of the Immigration and Asylum Act 1999, as extended to Jersey by the Immigration and Asylum Act 1999 (Jersey) Order 2003, allows the Minister for Home Affairs, by Order, to prescribe fees to be paid in connection with applications for –

- (i) leave to remain in the Bailiwick of Jersey;
- (ii) the variation of leave to enter, or remain in, the Bailiwick of Jersey;
- (iii) an indefinite leave stamp to be fixed on the applicant's passport (or travel document) as the result of the renewal or replacement of his previous passport (or travel document).

'User Pays' principle

P.63/2003 (adopted by the States in June 2003) states that no new 'User Pays' charges can be introduced by Committees of the States without any such charge receiving prior in principle approval by the States Assembly.

Conclusion

The introduction of Immigration fees is not considered to be a contentious issue, as the UK has been charging Immigration fees for many years without any significant problems. In addition, the existing legislation allows for the Minister, by Order, to prescribe these fees.

It is accepted that all 3 Crown Dependencies charge an identical fee to the UK for the issue of a British passport; accordingly, it is considered that any Immigration fees charged in Jersey should be equivalent to fees charged for an identical service in the other Crown Dependencies.

Applications for leave to remain in Jersey are made to the States of Jersey Customs and Immigration Service in person by appointment, and are not generally accepted by post. A standard processing time of 3 weeks is publicised, although in reality this is the maximum time an applicant will wait and every effort is made to minimise processing delays.

Applicants are actively encouraged to make applications in person in order that proper advice and guidance can be provided, and discrepancies easily resolved; postal applications are not encouraged. As the Service does not offer a two-tier level of service for applications, it is not considered that there is sufficient justification in applying fees based on the UK Public Enquiry Office (PEO) 'premium' fees in the Island.

The Isle of Man, when introducing immigration fees for the first time in June 2009, applied the rationale that they would seek to charge the equivalent of the UK Postal Rate for the reasons set out above. Current Isle of Man charges remain at the equivalent of UK 2008/2009 levels due to the amount of time required to draft the required legislative amendments and to lay these before Tynwald for approval. The Isle of Man authorities intend to propose an increase in their fees to ultimately match the prevailing UK Postal Rate.

It is known that the Guernsey Customs and Immigration Department intend to recommend implementation of the equivalent of the UK Postal Rate charging regime in due course.

If the Assembly gives in principle approval to the Minister's proposal and an Order is made, it will be necessary to give the public due notice. However, it is proposed that the fees be introduced at the earliest opportunity following these actions.

Financial and manpower implications

In accordance with Financial Direction No. 4.1: 'Increases in States Fees and Charges', the proposed charge represents a new application of the 'User Pays' principle and as such the prior approval of the States must be obtained in accordance with P.63/2003.

The fees to be levied are in line with those charged in the United Kingdom and are as follows –

- (i) Application for leave to remain, or application for variation of leave to a specified date, work permit holder or work permit dependant: **£400***
- (ii) Application for leave to remain, or application for variation of leave to a specified date, others: **£465***
- (iii) Application for leave to remain for an indefinite period: **£820***
- (iv) Application for endorsement of existing leave to remain in a new passport: **£165**

* An additional **£50** for each dependant applied for at the same time would also be payable.

These fees will be increased from time to time in line with States policies or in conjunction with the Minister for Treasury and Resources.

On current workload, it is estimated that fees charged at the proposed level will generate a gross income of approximately £100,000 with no additional manpower or cost implications to the Service. This amount is equal to 11% of the Customs and Immigration Service's income, and 6% of the total Home Affairs Department's income, identified in the 2010 Draft Annual Business Plan.

This income will not exceed expenditure in the budget of the relevant Customs and Immigration costed service area.