

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Foreign Affairs (the Minister)

Australian Passports (Application Fees) Act 2005

Australian Passports Act 2005

Australian Passports (Application Fees) Amendment Determination 2024

Australian Passports (Fees) Amendment Determination 2024

Legislative Authority

Section 4 of the *Australian Passports (Application Fees) Act 2005* (the Fees Act) provides that the Minister may, by legislative instrument, specify fees in respect of applications for Australian passports, travel-related documents, and for observations on Australian travel documents, in a Minister's determination. Further, section 5 of the Fees Act provides that the Minister may specify different application fees for different purposes in a Minister's determination.

Section 56 of the *Australian Passports Act 2005* (the Passports Act) provides that the Minister may, by legislative instrument, specify the circumstances in which application fees imposed under the Fees Act may be waived or refunded and, in the case of refunds, the amount that may be refunded, in a Minister's determination. Further, section 48 of the Passports Act provides that a decision not to waive or refund an application fee or refund part of an application fee under the Fees Act is a reviewable decision.

Purpose

The Australian Passports (Application Fees) Amendment Determination 2024 (the Fees Amendment) amends the Australian Passports (Application Fees) Determination 2015 (the Fees Determination) to provide for the 15% travel document fee increase announced by the Government in the 2023–24 Mid-Year Economic and Fiscal Outlook (MYEFO) budget statement.

The Fees Amendment will also introduce a new category of additional fee. The fee will guarantee the issue of a passport within five business days of a complete application being received by the Minister.

The Australian Passports (Fees) Amendment Determination 2024 (the Passports Amendment) amends the Australian Passports Determination 2015 (the Passports Determination) to provide the ability for the Minister to waive or refund the fast track passport fee under specific circumstances.

Financial Impact

Fees for Australian travel documents are imposed as taxes under the Fees Act.

The Fees Amendment provides for a one-off additional fee increase of 15% for Australian travel document applications, applicable from 1 July 2024. It will also introduce a new fast track passport fee and provide the option to upgrade from fast track processing to priority processing by paying the difference between the two fees.

The 15% increase will be reflected by updating the amount listed as payable in the Fees Determination for Australian travel documents (excluding a Provisional Travel Document for which there is no fee). The effective date of the new fees will be 1 July 2024.

The new fee amounts translate to an increase of:

- \$52 for a ten-year validity passport, issued to persons 16 years and older.
- \$26 for a five-year validity passport issued to children aged 0-15 years, and persons aged 75 and older.
- \$33 for an emergency passport, and for a replacement passport (issued in circumstances described at items 11, 12, 13, 14, 15, 16 or 17 of the table in subsection 17(2) of the Passports Determination).
- \$33 for a Convention Travel Document (also known as a Titre de Voyage) issued under the United Nations Convention relating to the Status of Refugees of 28 July 1951 and its 1967 Protocol.
- \$33 for a Certificate of Identity, issued under Subdivision B, section 9 of the Passports Act and section 7 of the Passports Determination.
- \$14 for a Document of Identity, issued under Subdivision B, section 9 of the Passports Act and section 8 of the Passports Determination.
- \$3 for the making of an observation on a passport after the issue of the passport.

The new additional fee amounts translate to an increase of:

- \$38 for an application for priority processing of an Australian travel document application. The priority processing fee provides for expedited processing of an application within two business days after the applicant provides the Australian Passport Office all the information requested by the Minister for the purpose of being satisfied of the identity, entitlement, or eligibility of the applicant.
- \$23 for an application for a passport for an adult made overseas, other than an emergency passport, replacement passport, or passport for which the period of validity is less than the maximum period for a passport.
- \$11 for an application for a passport for a child made overseas, other than an emergency passport, replacement passport, or passport for which the period of validity is less than the maximum period for a passport.

The Fees Amendment preserves automatic annual application of the indexation factor provided for in the Fees Act and Fees Determination on 1 January in future years. The new fast track processing fee, and the fast tracked to priority processing upgrade fee, will be subject to the annual indexation.

Regulatory impact

The Amendment Determinations will impose no additional regulatory impact on Australian citizens or businesses. The Office of Impact Analysis has confirmed that a detailed Impact Analysis is not required (Reference Number OIA24-06858).

Consultation

Department of Finance

Other Matters

Details of the Amendment are set out at:

Attachment A: Australian Passports (Application Fees) Amendment Determination 2024.

Attachment B: Australian Passports (Fees) Amendment Determination 2024.

The Amendments are legislative instruments for the purposes of the *Legislation Act 2003*.

Each Disallowable 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*.

The Statement of Compatibility with Human Rights is at Attachment C.

ATTACHMENT A**Details of the Australian Passports (Application Fees) Amendment Determination 2024****Section 1 – Name**

This section provides that the name of the instrument is the Australian Passports (Application Fees) Amendment Determination 2024 (the Fees Amendment).

Section 2 – Commencement

This section provides for the commencement of the Fees Amendment, as set out in the table in subsection 2.

Subsection 2 provides for the whole of the Fees Amendment to commence on 1 July 2024.

Section 3 – Authority

This section provides that the Amending Regulations are made under the *Australian Passports (Application Fees) Act 2005* (the Fees Act).

Section 4 – Schedules

This section provides for each instrument that is specified in the Schedule to be amended as set out in the Schedule to the Fees Amendment. The instrument to be amended is the Australian Passports (Application Fees) Determination 2015 (the Fees Determination).

Schedule 1 – Amendments

Schedule 1 to the Fees Amendment provides for the amendments to the Fees Determination.

Details of the Australian Passports (Application Fees) Determination 2015**Item 1 – Paragraph 5(1)(a)**

1. This item updates the calendar year from which the fees mentioned in column 2 of the table at subsection 5(3) apply.
2. The Fees Amendment maintains provisions for indexation on 1 January in later calendar years.

Item 2 – Subsection 5(3)

3. Section 5 sets out the application fees for Australian travel documents. The table in subsection 5(3) sets out the fees for specific travel documents and circumstances.

4. This item replaces the existing table in subsection 5(3). The updated table sets out the fees payable after application of an additional one-off 15% fee increase from 1 July 2024 for specific travel documents and circumstances.
5. The amounts of the fees in column 2 of the table in subsection 5(3) were derived by applying the following rules to the corresponding fees that were payable from 1 January 2024:
 - a one-off 15% increase announced in the 2023–24 Mid-Year Economic and Fiscal Outlook (MYEFO) budget statement.
 - the prices rounded to the nearest whole dollar in accordance with provisions at subsection 5(4) of the Fees Determination.
 - no increase for a Provisional Travel Document as no fee applies.
6. The application fee for:
 - an Australian passport that is valid for up to 10 years is increased by \$52, to \$398.
 - an Australian passport for a child that is valid for up to five years is increased by \$26, to \$201.
 - an Australian passport for a child who is 16 or 17 years old, and that is valid for up to 10 years is increased by \$52, to \$398.
 - a passport valid for up to five years, made by a person who is 75 or older, is increased by \$26, to \$201.
 - an emergency passport is increased by \$33, to \$250.
 - a replacement passport, including a replacement to which item 11, 12, 13, 14, 15, 16, or 17 of the table in subsection 17(2) of the Australian Passports Determination 2015 applies, is increased by \$33, to \$250.
 - making an observation on a passport after issue is increased by \$3, to \$20.
 - a certificate of identity is increased by \$33, to \$250.
 - a document of identity is increased by \$14, to \$105.
 - a convention travel document (Titre de Voyage) is increased by \$33, to \$250.

Item 3 - Subsection 6(1)

7. Subsection 6(1) sets out the annual CPI indexation of additional fees provided for in the table in subsection 6(3).
8. This item makes a minor update for clarity, identifying consistent with the table at subsection 6(3) that the fees are ‘additional fees’. That is, they are payable in addition to the application fee for the relevant travel document and circumstance.

Item 4 - Paragraph 6(1)(a)

9. This item updates the calendar year from which the fees mentioned in column 2 of the table at subsection 6(3) apply.
10. The amendment maintains provisions for indexation on 1 January in later calendar years.

Item 5 - Subsection 6(3)

11. Section 6 sets the type of additional fees that may be payable when applying for an Australian travel document. The table in subsection 6(3) sets out the kind of application to which the additional fee may apply, and the amount payable for each service.
12. This item replaces the existing table with an updated table. The updated table sets out the additional fees payable after application of an additional one-off 15% fee increase to existing additional fees from 1 July 2024 for specific travel documents and circumstances. That is, the fee for an application for a priority processed travel document, and the fee for an application for an Australian passport made overseas.
13. The amounts of the fees in column 2 of the table in subsection 6(3) were derived by applying the following rules to the corresponding fees that were payable from 1 January 2024:
 - a one-off 15% increase announced in the 2023–24 MYEFO budget statement.
 - the prices rounded to the nearest whole dollar in accordance with provisions at subsection 6(5) of the Fees Determination.
14. The additional fee for:
 - a priority processed travel document is increased by \$38, to \$290. Priority processing refers to expedited processing of a travel document application within two business days after the applicant gives all information requested by the Minister for the purposes of being satisfied of the identity, entitlement, or eligibility of the applicant. Two business days excludes transit time between lodgement and receipt by the Australian Passport Office, and delivery to the applicant.
 - an application for a passport for an adult made overseas, other than an emergency passport, replacement passport, or passport for which the period of validity is less than the maximum period for a passport is increased by \$23, to \$178.
 - an application for a passport for a child made overseas, other than an emergency passport, replacement passport, or passport for which the period of validity is less than the maximum period for an Australian passport that is valid for up to five years, is increased by \$11, to \$87.

15. The updated table also introduces an additional fee for a fast tracked application. The fast track application fee will be available from 1 July 2024, and will be \$100.
16. The fast track fee serves as application for expedited processing of an application for a travel document within five business days from when the Minister receives an application that includes all the information requested by the Minister for the purpose of being satisfied of the identity, entitlement, or eligibility of the applicant.
17. Five business days refers to processing by the Australian Passport Office. It excludes transit time between lodgement and receipt by the Australian Passport Office, and delivery to the applicant.
18. The five business day timeframe applies to complete applications. That is an application that includes all of the information the Minister requires to be satisfied of a person's identity, entitlement, and eligibility to be issued an Australian travel document. Where an application is incomplete, a request may be made for additional information.
19. The fast track fee will be indexed annually as per subsection 6(1) of the Fees Determination.
20. The new table at subsection 6(3) also provides the amount payable for a person to upgrade from fast tracked processing to priority processing. The fee to upgrade from fast track to priority processing is the difference between the priority processing fee and the fast tracked processing fee.
21. Where a person upgrades from fast tracked processing (which is a five business day turnaround) to priority processing (which is a two business day turnaround), the new processing time will commence from the later of payment of the upgrade fee and the applicant providing all the information requested by the Minister for the purpose of being satisfied of the identity, entitlement, or eligibility of the applicant.
22. If a person pays the fee to upgrade from fast track processing to priority processing after lodging their application but before the application is received by the Minister, the two day processing time will not apply until the application is received by the Minister (that is, the Australian Passport Office on behalf of the Minister).
23. The fee to upgrade from fast track to priority expedited processing will be indexed annually, as per subsection 6(1) of the Fees Determination.
24. The table is renumbered for clarity.

ATTACHMENT B**Details of the Australian Passports (Fees) Amendment Determination 2024****Section 1 – Name**

This section provides that the name of the instrument is the Australian Passports (Fees) Amendment Determination 2024 (the Passports Amendment).

Section 2 – Commencement

This section provides for the commencement of the Amendment, as set out in the table in subsection 2.

Subsection 2 provides for the whole of the Passports Amendment to commence on 1 July 2024.

Section 3 – Authority

This section provides that the Amending Regulations are made under the *Australian Passports Act 2005* (the Passports Act).

Section 4 – Schedules

This section provides for each instrument that is specified in the Schedule to be amended as set out in the Schedule to the Passports Amendment. The instrument to be amended is the Australian Passports Determination 2015 (the Passports Determination).

Schedule 1—Amendments

Schedule 1 to the Passports Amendment provides for the amendments to the Passports Determination.

Details of the Australian Passports Determination 2015**Item 1 – Paragraph 27(1)(k)**

1. This item updates the relevant number cross references to the table in subsection 6(3) of the Australian Passports (Application Fees) Determination 2015 (the Fees Determination).
2. Relevant item 4 in the table in subsection 6(3) of the Fees Determination relates to the fee payable for an Australian passport (other than an emergency passport, a replacement passport, or a passport for which the period of validity is less than the maximum period for a passport of that kind) that is made overseas.

Item 2 – Subsection 27(2)

3. This item repeals the existing subsection including the title. The existing subsection provides that the Minister may waive the priority processing fee when satisfied there are compassionate grounds for waiver of that fee.
4. This new item provides for the Minister to waive either the priority processing fee or the fast track fee if the Minister is satisfied that there are compassionate grounds for waiver of the fees.
5. In addition, and by referencing items 1, 2 or 3 of the table in subsection 6(3) of the Fees Determination, the item provides for waiver of the fee to upgrade from fast track processing to priority processing if the Minister is satisfied that there are compassionate grounds to do so.

Item 3 – Subsection 28(2)

6. This item adds the new fast track fee and the fee to upgrade from fast track processing to priority processing to the list of fees that may be refunded wholly or in part by the Minister where the Minister is satisfied that exceptional circumstances exist.

Item 4 – Subsection 28(3)

7. This item provides that the fee to upgrade from fast track processing to priority processing, as listed in item 3 of the table in subsection 6(3) of the Fees Determination is subject to the same refund provisions as the priority processing fee.
8. This item provides that the Minister may refund the fee to upgrade from fast track processing to priority processing if the travel document is not issued within two business days after payment of the fee to upgrade. It also prescribes that two business days is counted from when the Minister has received all of the information requested by the Minister to be satisfied of the identity, entitlement, or eligibility of the applicant.
9. Two business days refers to processing by the Australian Passport Office. It excludes transit time between lodgement and receipt by the Australian Passport Office, and delivery to the applicant.
10. If a person pays the fee to upgrade from fast track processing to priority processing after lodging their application but before the application reaches the Australian Passport Office, the two day processing time will not apply until the application is received by the Passport Office.

11. The item also provides for the Minister to refund the fee to upgrade from fast track processing to priority processing if the Minister is satisfied that there are compassionate grounds for the refund.

Item 5 – After subsection 28(3)

12. This item inserts provisions under which the fast track processing fee may be refunded.
13. It provides that the Minister may refund the fast track processing fee if the travel document is not issued within five business days after the Minister receives all of the information requested to be satisfied of the identity, entitlement, or eligibility of the person to issue the travel document.
14. Five business days refers to processing by the Australian Passport Office. It excludes transit time between lodgement and receipt by the Australian Passport Office, and delivery to the applicant.
15. This item also provides that the Minister may refund the fast track processing fee if the Minister is satisfied that there are compassionate grounds for the refund.

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 2024

This Disallowable 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 Legislative Instrument

The principal object of the *Australian Passports (Application Fees) Act 2005* (the Fees Act) is to provide for the imposition, as taxes, of fees in relation to Australian travel documents and for related purposes. The Australian Passports (Application Fees) Determination 2015 (the Fees Determination) is a critical instrument in supporting the operation of the Fees Act.

The Australian Passports (Application Fees) Amendment Determination 2024 (the Fees Amendment) amends the Fees Determination primarily to provide for the travel document fee increases announced by the 2023–24 Mid-Year Economic and Fiscal Outlook (MYEFO) budget statement.

The Government announced that passport fees will increase from 1 July 2024 by 15%. For clarity, the amendment will list the application fee and additional fee amounts payable from 1 July 2024 (that is, post application of the 15% increase, and in accordance with rounding provisions at subsection 5(4) and 6(5) of the Fees Determination.

Further, the Government agreed to establish a new category of additional fee. The fast track passport fee will guarantee the issue of a passport within five days of a complete application being received.

The amendment will allow for introduction of the fast track passport fee and include provisions to upgrade from fast track processing to priority processing, by paying the difference between the two fees. Items in the table at subsection 6(3) will be renumbered for clarity.

Human rights implications

This 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 Fees Act and the 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.

The application fee for all travel documents, except Provisional Travel Documents for which there is no fee, is increased by 15% from 1 July 2024 as a result of this Amendment Determination. That translates to the following fee increases:

- \$52 for a ten-year validity passport, issued to persons 16 years and older.
- \$26 for a five-year validity passport issued to children aged 0-15 years, and persons aged 75 and over.
- \$33 for an emergency passport, and for a replacement passport (issued in circumstances described at items 11, 12, 13, 14, 15, 16 or 17 of the table in subsection 17(2) of the Australian Passports Determination 2015 (the Passports Determination)).
- \$33 for a Convention Travel Document (also known as a Titre de Voyage) issued under the United Nations Convention relating to the Status of Refugees of 28 July 1951 and its 1967 Protocol.
- \$33 for a Certificate of Identity, issued under Subdivision B, section 9 of the *Australian Passports Act 2005* (the Passports Act) and section 7 of the Passports Determination.
- \$14 for a Document of Identity, issued under Subdivision B, section 9 of the Passports Act and section 8 of the Passports Determination.
- \$3 for the making of an observation on a passport after the issue of the passport.

The existing additional fee amounts are increased by 15% from 1 July 2024 as a result of this Amendment Determination. The new additional fee amounts translate to an increase of:

- \$38 for an application for priority processing of an Australian travel document application. Priority processing refers to expedited processing for the issue of an Australian travel document within two business days after the applicant gives all the information requested by the Minister for the purpose of being satisfied of the identity, entitlement, or eligibility of the applicant.
- \$23 for an application for a passport for an adult made overseas, other than an emergency passport, replacement passport, or passport for which the period of validity is less than the maximum period for a passport.
- \$11 for an application for a passport for a child made overseas, other than an emergency passport, replacement passport, or passport for which the period of validity is less than the maximum period for a passport.

The amendment also introduces a fast track processing fee. The fee provides for fast tracked or expedited, processing of a travel document application. A fast tracked passport will be issued within five business days after the applicant gives all the information requested by the Minister for the purpose of being satisfied of the identity, entitlement, or eligibility of the applicant. The fast track fee will start at \$100, indexed annually on 1 January. The fast track fee is optional and, importantly, provisions to waive or refund this fee on compassionate grounds are included in the amendment to the Passports Determination.

The increases, particularly when viewed in the context of the cost of overseas travel, are unlikely to restrict the freedom to leave one's own country protected by Article 12(2) of the ICCPR. In addition, sections 27 and 28 of the Passports Determination provide for the waiver and refund of fees in certain circumstances, for example in the case of a natural disaster. 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 Passports Act.

The introduction of the fast track processing fee provides the option of a cheaper alternative for expedited processing of an application for an Australian travel document, when compared to the priority processing fee, where a person requires their passport urgently but not within two business days. This will make expedited processing more accessible to passport applicants and thereby promotes the right to freedom of movement.

Section 27(1) of the Passports Determination also provides for the waiver of a fee where the Minister is satisfied that exceptional circumstances exist in relation to the applicant that warrant waiver of the fee. Section 27(2) of the Passports Determination is amended by the Australian Passports (Fees) Amendment Determination 2024 to provide for the waiver of the fast track fee where the Minister is satisfied there are compassionate grounds for waiver of the fee.

Noting the detail provided above, 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.

Australian Passports (Fees) Amendment Determination 2024

This Disallowable 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 Legislative Instrument

The principal object of the Passports Act is to provide for the issue and administration of Australian passports. The Passports Determination is a critical instrument in supporting the operation of the Passports Act.

Amendment to the Passports Determination supports the introduction of a new fee type, provided for by the Government in the 2023–24 MYEFO related to fees for Australian passports and travel documents.

In addition to announcing a 15% increase to passport fees from 1 July 2024, the Government agreed to establish a new category of additional fee. The fast track processing fee will guarantee the issue of an Australian travel document within five days of an application being received.

The Passports Determination is amended to facilitate decisions to waive or refund the fast track processing fee in specific circumstances. The update will permit the fast tracked processing fee to be waived or refunded if the Minister is satisfied that there are compassionate grounds for waiver of the fee.

The update will also allow the Minister to refund the fast tracked processing fee if the travel document is not issued within five business days after the Minister receives all the information requested by the Minister for the purpose of being satisfied of the identity, entitlement, or eligibility of the person in order to issue the document.

Human rights implications

This 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, including his own.

The Passports Act and Passports Determination engage the right to freedom of movement in Article 12 of the ICCPR. This is because a passport enables people to exercise the right of freedom of movement.

This amendment engages a person's right to freedom of movement, but it does not limit this right as it provides for circumstances under which a fast track passport fee may be waived or refunded.

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.