
STATUTORY INSTRUMENTS

2022 No. 1209

BRITISH NATIONALITY

The Nationality and Borders Act 2022 (Consequential Amendments) (No. 2) Regulations 2022

Made - - - - *17th November 2022*

Coming into force - - *18th November 2022*

The Secretary of State, in exercise of the powers conferred by section 84(2) of the Nationality and Borders Act 2022⁽¹⁾, makes the following Regulations.

In accordance with section 84(5)(a) of that Act, a draft of these Regulations was laid before Parliament and approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Nationality and Borders Act 2022 (Consequential Amendments) (No. 2) Regulations 2022.

(2) These Regulations come into force on the day after the day on which they are made.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Amendment of the Special Immigration Appeals Commission Act 1997

2.—(1) The Special Immigration Appeals Commission Act 1997⁽²⁾ is amended as follows.

(2) In section 1(1) (establishment of the Commission), at the end, insert “and Schedule 4A to the British Nationality Act 1981⁽³⁾”.

(3) After section 6A (procedure in relation to jurisdiction under sections 2C to 2F)⁽⁴⁾ insert—

“6B Procedure in relation to jurisdiction under Schedule 4A to the British Nationality Act 1981

(1) The Lord Chancellor may make rules—

(1) 2022 c. 36.

(2) 1997 c. 68.

(3) Schedule 4A was inserted by Schedule 2 to the Nationality and Borders Act 2022.

(4) Section 6A was inserted by paragraph 9(2) of Schedule 2 to the Justice and Security Act 2013.

- (a) in relation to applications under paragraph 1(1), (2) or (6) or paragraph 2(5) of Schedule 4A to the British Nationality Act 1981 (deprivation of citizenship without notice),
 - (b) for prescribing the practice and procedure to be followed on or in connection with applications under those paragraphs, including the mode and burden of proof and admissibility of evidence on such applications, and
 - (c) for other matters preliminary or incidental to or arising out of such applications, including proof of the decisions of the Special Immigration Appeals Commission.
- (2) Rules under this section may, in particular, do anything which may be done by Tribunal Procedure Rules.
- (3) Rules under this section may make provision—
- (a) enabling any functions of the Commission which relate to an application under a provision mentioned in subsection (1)(a) to be performed by a single member of the Commission, or
 - (b) conferring on the Commission such ancillary powers as the Lord Chancellor thinks necessary for the purposes of the exercise of its functions.
- (4) In making rules under this section, the Lord Chancellor must have regard, in particular, to—
- (a) the need to secure that decisions which are the subject of applications are properly reviewed, and
 - (b) the need to secure that information is not disclosed contrary to the public interest.
- (5) The power to make rules under this section is exercisable by statutory instrument.
- (6) No rules may be made under this section unless a draft of them has been laid before and approved by resolution of each House of Parliament.”
- (4) In section 7 (appeals from the Commission)(5), after subsection (1A) insert—
- “(1B) Where the Commission has made a final determination of an application under paragraph 1(1), (2) or (6) or paragraph 2(5) of Schedule 4A to the British Nationality Act 1981 (deprivation of citizenship without notice), the Secretary of State may bring an appeal against that determination to the appropriate appeal court.”.

17th November 2022

Robert Jenrick
Minister of State
Home Office

(5) Section 7 was amended by paragraph 1 of Schedule 16 to the Immigration and Asylum Act 1999 (c. 33), paragraph 9(3) of Schedule 2 to the Justice and Security Act 2013 (c. 18), section 66(4) of the Criminal Justice and Courts Act 2015 (c. 2) and section 77 of the Nationality and Borders Act 2022 (c. 36).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Special Immigration Appeals Commission Act 1997 (“the 1997 Act”). These amendments are consequential on the commencement of section 10(2) to (5) of and Schedule 2 to the Nationality and Borders Act 2022, which enables the Secretary of State to deprive an individual of their British citizenship without prior notice subject to certain conditions. In such cases, the Secretary of State must apply to the Special Immigration Appeals Commission (“the Commission”) prior to making the deprivation order without notice or, alternatively, the Secretary of State must apply to the Commission within seven days of making the deprivation order without notice. The Commission is required to determine whether, in respect of each condition on which the Secretary of State relies in order to disapply the notice requirement, the Secretary of State’s view is obviously flawed.

Regulation 2(2) amends section 1(1) of the 1997 Act to refer to the jurisdiction conferred on the Commission by Schedule 4A to the British Nationality Act 1981, which was inserted by Schedule 2 to the Nationality and Borders Act 2022.

Regulation 2(3) inserts new section 6B into the 1997 Act, which will empower the Lord Chancellor to make rules prescribing the procedure to be followed in relation to applications under paragraph 1(1), (2) or (6) or paragraph 2(5) of Schedule 4A to the British Nationality Act 1981.

Regulation 2(4) amends section 7 of the 1997 Act by inserting new subsection (1B), which provides that the Secretary of State may appeal the Commission’s final determination of such applications.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.