

# **BORDERS, CITIZENSHIP AND IMMIGRATION ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY**

#### **Part 4: Miscellaneous and General**

##### ***Section 58: Commencement***

215. **Section 58** contains provisions relating to the coming into force of the Act. Subsections (2), (3)(a) and (4)(b) provide for specified provisions to come into force on such days as the Secretary of State by order appoints. Subsection (4)(a) provides for section 53 (transfer of certain immigration judicial review applications) to come into force on such day as the Lord Chancellor by order appoints. All other provisions come into force on the passing of the Act. Subsection (16) provides that before commencing section 52 (detention at ports in Scotland) the Secretary of State will consult the Scottish Ministers
216. **Section 58(9)** requires that the commencement order bringing into effect sections 39 to 41 will contain certain transitional provisions. These provisions are to ensure that people who apply for British citizenship before the earned citizenship provisions are commenced will be treated under the current law in respect of the outstanding application.
217. **Section 58(9)(b)** in conjunction with section 58(10) and (11) requires the order also to include transitional provisions for citizenship applications made by those with indefinite leave to remain on the date of commencement and those who – on that date - have submitted an application which is subsequently successful. The provisions must ensure that for a period of two years beginning with the date of commencement such persons can apply for British citizenship under the current law.
218. **Section 58(12)** distinguishes the commencement order to which (9) applies from an order commencing the regulation making provisions in sections 39 to 41 so that such an order can be made prior to the principal commencement order (which must include these transitional provisions).
219. Subsection (15) of section 58 provides that no order may commence section 53 (transfer of certain judicial review applications) unless the functions of the Asylum and Immigration Tribunal have been transferred under the Tribunals, Courts and Enforcement Act 2007.