
STATUTORY INSTRUMENTS

2006 No. 3145

The Immigration (Certificate of Entitlement to Right of Abode in the United Kingdom) Regulations 2006

Citation, commencement and interpretation

1. These Regulations may be cited as the Immigration (Certificate of Entitlement to Right of Abode in the United Kingdom) Regulations 2006 and shall come into force on 21st December 2006.

2. In these Regulations—

“the 1971 Act” means the Immigration Act 1971(1);

“the 1981 Act” means the British Nationality Act 1981(2);

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;

“appropriate authority” means the authority to whom an application for a certificate of entitlement must be made, as determined in accordance with regulation 3;

“certificate of entitlement” means a certificate, issued in accordance with these Regulations, that a person has the right of abode in the United Kingdom;

“Governor”, in relation to a territory, includes the officer for the time being administering the government of that territory;

“High Commissioner” means, in relation to a country mentioned in Schedule 3 to the 1981 Act(3), the High Commissioner for Her Majesty’s Government in the United Kingdom appointed to that country, and includes the acting High Commissioner; and

“passport” includes a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport.

Authority to whom an application must be made

3. An application for a certificate of entitlement must be made—

(a) if the applicant is in the United Kingdom, to the Secretary of State for the Home Department;

(b) if the applicant is in any of the Channel Islands or the Isle of Man, to the Lieutenant-Governor;

(c) if the applicant is in a British overseas territory, to the Governor;

(d) if the applicant is in a country mentioned in Schedule 3 to the 1981 Act, to the High Commissioner, or, if there is no High Commissioner, to the Secretary of State for the Home Department; and

(1) 1971 c. 77.

(2) 1981 c. 61.

(3) Schedule 3 has been amended by the Brunei and Maldives Act 1985 (c. 3) and S.I.s 1983/882, 1983/1699, 1989/1331, 1990/1502, 1994/1634 and 1998/3161.

- (e) if the applicant is elsewhere, to any consular officer, any established officer in the Diplomatic Service of Her Majesty's Government in the United Kingdom or any other person authorised by the Secretary of State in that behalf.

Form of application

4. An application for a certificate of entitlement must be accompanied by—
- (a) the applicant's passport or travel document;
 - (b) two photographs of the applicant taken no more than 6 months prior to making the application; and
 - (c) the additional documents which are specified in the right-hand column of the Schedule in respect of an application of a description specified in the corresponding entry in the left-hand column.
5. A passport produced by or on behalf of a person is valid for the purposes of regulation 4 if it—
- (a) relates to the person by whom or on whose behalf it is produced;
 - (b) has not been altered otherwise than by or with the permission of the authority who issued it; and
 - (c) was not obtained by deception.

Issue of certificate of entitlement

6. A certificate of entitlement will only be issued where the appropriate authority is satisfied that the applicant—
- (a) has a right of abode in the United Kingdom under section 2(1) of the 1971 Act⁽⁴⁾;
 - (b) is not a person who holds:
 - (i) a United Kingdom passport describing him as a British citizen,
 - (ii) a United Kingdom passport describing him as a British subject with the right of abode in the United Kingdom,
 - (iii) an ID card issued under the Identity Cards Act 2006⁽⁵⁾ describing him as a British citizen, or
 - (iv) an ID card issued under that Act describing him as a British subject with the right of abode in the United Kingdom;
 - (c) is not a person whose exercise of his right of abode is restricted under section 2 of the Immigration Act 1988⁽⁶⁾ (restrictions on exercise of right of abode in cases of polygamy); and
 - (d) is not a person who is deprived of his right of abode by an order under section 2A of the 1971 Act⁽⁷⁾.
7. A certificate of entitlement is to be issued by means of being affixed to the passport or travel document of the applicant.

(4) As substituted by section 39(2) of the 1981 Act.

(5) 2006 c. 15.

(6) 1988 c. 14.

(7) Section 2A was inserted by section 57(1) of the Immigration, Asylum and Nationality Act 2006.

Expiry and revocation of certificate of entitlement

8. A certificate of entitlement shall cease to have effect on the expiry of the passport or travel document to which it is affixed.

9. A certificate of entitlement may be revoked by the Secretary of State for the Home Department, an immigration officer, a consular officer or a person responsible for the grant or refusal of entry clearance, where the person who revokes the certificate is satisfied that the person in possession of the certificate (whether or not this is the person to whom the certificate was issued)—

- (a) does not have the right of abode in the United Kingdom under section 2(1) of the 1971 Act;
- (b) is the holder of:
 - (i) a United Kingdom passport describing him as a British citizen,
 - (ii) a United Kingdom passport describing him as a British subject with the right of abode in the United Kingdom,
 - (iii) an ID card issued under the Identity Cards Act 2006 describing him as a British citizen, or
 - (iv) an ID card issued under that Act describing him as a British subject with the right of abode in the United Kingdom;
- (c) is a person whose exercise of his right of abode is restricted under section 2 of the Immigration Act 1988; or
- (d) is a person who is deprived of his right of abode by an order under section 2A of the 1971 Act.

Savings

10. The effect of a certificate described in section 10(6) of the 2002 Act is that it will cease to have effect on the expiry of the passport or travel document to which it is affixed.

Home Office
23rd November 2006

Liam Byrne
Minister of State