

**EXPLANATORY MEMORANDUM TO
THE BRITISH NATIONALITY (GENERAL) (AMENDMENT) REGULATIONS 2009**

2009 No. 3363

1. This Explanatory Memorandum has been prepared by The Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the British Nationality (General) Regulations 2003 (S.I. 2003 No. 548) (“the 2003 Regulations”). Amendments to the 2003 Regulations are required in response to amendments made to the British Nationality Act 1981 (‘The Act’) by sections 42 to 46 of the Borders Citizenship and Immigration Act 2009 (c.11).

2.2 These Regulations extend and amend existing provisions for prescribing the manner in which specified applications for registration as a British citizen must be made and the manner in which parental consent, where required, is signified to an application for registration under the Act.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Amendments have been made to the Act by virtue of sections 42 to 46 of the Borders, Citizenship and Immigration Act 2009 that will be commenced on 13 January 2010. These amendments to the Act are: the introduction of two new registration routes to British citizenship, being new sections 4D and 1(3A) of the Act, and the revision of existing registration entitlement provisions to British citizenship, being sections 3(2), 4B and 4C of the Act. The new sections being introduced into the Act require the insertion of two new paragraphs into Schedule 2 to the 2003 Regulations, which prescribe the information that must be provided on application for registration. Section 4D also necessitates amendment of regulation 14 of the 2003 Regulations. The revision of existing registration entitlement provisions requires amendment to existing paragraphs of Schedule 2 to the 2003 Regulations in order to prescribe the information that must be provided on application under those revised registration routes.

4.2 These Regulations amend regulation 14 of the 2003 Regulations. Regulation 14 currently prescribes the manner in which parental consent must be signified for the purposes of section 3(5)(c) to effect registration of a minor as a British citizen under section 3(5) of the Act. It is being amended to require that parental consent must be

signified in the same manner for the purposes of section 4(D)(3) where an application is made under new section 4D of the Act. The amended regulation 14 will require parental consent to be expressed for section 4(D)(3) in writing and be signed by the parent(s).

4.3 These Regulations insert paragraphs IA and 11A into Schedule 2 to the 2003 Regulations. These paragraphs stipulate the information that must accompany an application for registration under new sections 1(3A) and 4D of the Act.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom, the Islands and the British Overseas Territories (the qualifying territories).

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 Sections 4D and 1(3A) have been inserted into the Act as a direct result of the Cross-government consensus on the need to improve the conditions and benefits of those serving in the UK armed forces. This consensus resulted in the Ministry of Defence Command Paper of July 2008: “The Nation's Commitment: Cross-Government Support to our Armed Forces”.

7.2 Sections 3(2), 4B and 4C of the Act have been revised so as to expand the class of persons entitled to register as a British citizen under these provisions in direct response to campaigns for change presented to the Government both before and during the passage of the Borders, Citizenship and immigration Act 2009 through Parliament.

7.3 Schedule 2 to the 2003 Regulations prescribes the information that must be provided in support of applications for registration as a British citizen. Changes to those Regulations is now required so as to ensure that applications under the revised sections 3(2), 4B and 4C and applications under the new section 1(3A) and 4D are consistent with established practice and existing regulatory requirements as to what information must be provided by the applicant. Specifically in relation to the requirement for parental consent under new section 4D, Regulation 14 of the 2003 Regulations is being amended to ensure parental consent is signified in the same manner as is required for existing section 3(5) of the Act.

8. Consultation outcome

8.1 No consultation was required on this item as these amendments to the 2003 Regulations are designed to give effect to primary legislative change which itself involved the required consultation with stakeholders.

9. Guidance

9.1 Guidance will be made available publicly on the UK Border Agency website to explain in further detail the operation of these changes to the 2003 Regulations.

10. Impact

10.1 This instrument has no direct impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is confined to the Home Office and is purely administrative.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

11.2 There is no adverse impact on firms employing up to 20 people.

12. Monitoring & review

12.1 None will be required given the purely administrative impact of these changes to the 2003 Regulations.

13. Contact

13.1 Jonathan Devereux, Head of Nationality Policy, UK Border Agency, tel: 0151 213 1871 or e-mail: (jonathan.devereux2@ukba.gsi.gov.uk) can answer any queries regarding the instrument.