

EXPLANATORY MEMORANDUM TO
THE BRITISH NATIONALITY (GENERAL) (AMENDMENT)
REGULATIONS 2013

2013 No. 2541

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 2003¹ (“the 2003 Regulations”). They amend the existing provisions for determining whether a person has sufficient knowledge of language and of life in the United Kingdom for the purpose of an application for naturalisation as a British citizen under section 6 of the British Nationality Act 1981 (“the 1981 Act”).

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

3.1 None

4. **Legislative Context**

4.1 Paragraphs 1 and 2 of Schedule 1 to the 1981 Act set out the requirements to be met for naturalisation as a British citizen under section 6 of that Act. These include the requirement that an individual has sufficient knowledge of English, Welsh or Scottish Gaelic. The Schedule was amended by the Nationality, Immigration and Asylum Act 2002 to include an additional requirement that individuals have sufficient knowledge about life in the United Kingdom². Regulation 5A of the 2003 Regulations sets out how applicants can demonstrate this³.

4.2 Under the current text of regulation 5A, one of the ways applicants can demonstrate their knowledge of English and life in the United Kingdom is by *either* obtaining an ESOL⁴ qualification after studying at an accredited college *or* by passing the “Life in the UK Test”.

4.3 Under the new regulation 5A applicants can no longer rely on the “Life in the UK” Test to show their knowledge of English, but will need a separate English language qualification equivalent to level B1 on the Common European Framework of Reference for Languages; Learning, Teaching

¹ S.I. 2003/548

² See paragraph 1(c) and (ca) of Schedule 1 to the 1981 Act.

³ Regulation 5A was originally added by S.I. 2004/1726. The current wording of regulation 5A was added to the 2003 Regulations by S.I. 2005/2758 and subsequently amended by S.I. 2010/785.

⁴ English for Speakers of Other Languages

Assessment (“CEFR”)⁵ (these are specified in the Schedule 2A that these Regulations will add to the 2003 Regulations).

4.4 Under the new regulation 5A those from listed English speaking countries are now deemed to have sufficient knowledge of English (these countries are also set in the new Schedule 2A). Likewise those who have studied at degree level or above in English will be deemed to have sufficient knowledge of English.

4.5 Applicants will still normally need to pass the “Life in the UK Test” as evidence of their knowledge of life in the United Kingdom.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom, the Channel Islands, the Isle of Man and the British Overseas Territories.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 The Government wishes to ensure that people seeking to naturalise as British citizens have an understanding of language and of life in the United Kingdom. The intention behind this policy is to ensure that migrants to the United Kingdom are equipped with the necessary knowledge and skills for integration. Applicants for naturalisation are therefore required to demonstrate that they have attained specified qualifications which are set out in Regulation 5A of the Regulations.

7.2 Under the previous regulations, applicants for naturalisation could satisfy the requirement to demonstrate knowledge of language and life in the United Kingdom by passing the Life in the UK test, set at B1 on the CEFR. This is a computer-based test which does not test the speaking and listening ability of candidates.

7.3 Alternatively, the requirement could be satisfied by obtaining an English for Speakers of Other Languages (ESOL) Qualification at a level of English below B1. Applicants were required to attend a course of study at an accredited college that used specified teaching materials based on citizenship topics and were expected to progress their English ability during that course.

⁵ This is a widely used framework developed by the Council of Europe for evaluating language skills.

Under these arrangements, it was possible to satisfy the knowledge of language and life requirement with a low level of English insufficient for much day to day interaction, including in an English-speaking workplace

7.4 Understanding and being able to use English at a level which facilitates interaction with the wider community is key to successful integration. It is also important that those wishing to live permanently in the United Kingdom have a basic understanding of the responsibilities which come with citizenship, the principles of British democracy and the history and culture from which they flow. These amendments therefore aim to ensure that those seeking to become citizens of the United Kingdom are equipped to play a full role in society with the necessary level of communication skills and understanding of life in their new country.

7.5 People applying for naturalisation come from a wide range of educational and social backgrounds. To reflect this, under the new arrangements a wide range of English language qualifications can be used to meet the requirement, enabling applicants to find a qualification suitable for their individual needs. Applicants will no longer be required to study for an English qualification at an accredited institution but will be able to undertake any necessary study in the way best suited to them, which may include less formal study arrangements. The accreditation requirement in place under the previous Regulations was introduced to help reduce the possibility of abuse. Under these Regulations, the focus has changed to ensuring that applicants demonstrate a minimum level of English through a secure qualification and this, coupled with the need to pass the Life in the UK test, will provide the necessary security assurances without the need for an accreditation scheme.

7.6 Similar changes are being made to the Immigration Rules in respect of the English language and life in the United Kingdom requirements for indefinite leave to remain. Those who satisfy the new requirements for indefinite leave to remain will not be required to undertake further study for naturalisation.

8. Consultation outcome

8.1 The consultation paper on Family Migration published on 13 July 2011 included consideration of whether the current knowledge of language and life requirement was sufficient to ensure an adequate level of language to aid the integration of those living permanently in the United Kingdom. The Government's response to the consultation was published on 13 June 2012 and is available on the Home Office website at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/news/cons-fam-mig.pdf>

8.2 82 per cent of respondents agreed that those seeking permanent residence should be required to understand everyday English. There was general agreement that a knowledge of English is desirable, both to enhance

community cohesion and for the benefit of the individual, with speaking and listening seen as the most important skills. A compulsory English language requirement and knowledge of British values such as democracy were also seen as important to promote integration.

8.3 The amendments have also been the subject of consultation with the Office of Qualifications and Examinations Regulation, the Scottish Qualifications Authority, and representatives of the English language sector. The authorities in the Channel Islands and the Isle of Man have agreed the references to the Life in the UK test in their respective jurisdictions. British Overseas Territories have not been consulted, as these Regulations do not change the requirements for applications for British Overseas Territories Citizenship.

9. Guidance

9.1 Guidance on the new Regulations will be posted on the Home Office website and in written guidance provided to naturalisation applicants.

10. Impact

10.1 There is potential for impact on business, charities or voluntary bodies from an increase in demand for English language tuition. However, individuals will be able to choose to study in a way best suited to them and not all will choose to study in a formal setting. Discussions have been held with the awarding bodies for English language qualifications and learndirect, who administer the Life in the UK test, and they do not anticipate difficulties in meeting any increased demand.

10.2 The impact on the public sector is confined largely to the Home Office.

10.3 An Impact Assessment has not been prepared for this instrument. However an Impact Assessment on similar changes to the language requirement for settlement was produced and is available at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/news/fam-impact-state.pdf>

11. Regulating small business

11.1 The legislation does apply to small businesses.

11.2 We anticipate, however, that this legislation will reduce the regulatory requirements on some small businesses. Previously businesses offering ESOL courses suitable for naturalisation purposes were required to be accredited by an approved accreditation body which had cost implications. Under these regulations, they will no longer be required to be accredited by an approved

accreditation body although accreditation schemes will continue to be available for those who choose to take part.

12. Monitoring & review

12.1 The effect of these changes will be monitored by the Home Office.

13. Contact

Ann Robertson at the Home Office (Tel: 020 7035 3446 or email: Ann.Robertson@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.