

2022 No. 602

BRITISH NATIONALITY

IMMIGRATION

NATIONALITY

**The British Nationality (General, British Overseas Territories
and Fees) (Amendment) Regulations 2022**

Made - - - - - *31st May 2022*

Laid before Parliament *7th June 2022*

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 41(1)(a) and (b) and (3) of the British Nationality Act 1981(a) and sections 68(1), (7) and (8), 69(2) and 74(8)(a) and (b) of the Immigration Act 2014(b).

So far as these Regulations are made in exercise of powers conferred by the Immigration Act 2014, they are made further to provision in the Immigration and Nationality (Fees) Order 2016(c) and with the consent of the Treasury(d).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the British Nationality (General, British Overseas Territories and Fees) (Amendment) Regulations 2022.

(2) Except as provided by paragraph (3), these Regulations come into force on 28th June 2022.

(3) The following provisions of these Regulations come into force on the day on which section 3 of the Nationality and Borders Act 2022(e) comes into force—

(a) regulation 2(2)(c);

(b) regulation 3(3)(d), so far as it inserts paragraph 6K in Schedule 2 to the British Nationality (British Overseas Territories) Regulations 2007(f).

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

(5) This regulation and regulations 2 and 3 extend also to—

(a) 1981 c. 61. Section 41(3) was amended by paragraph 6 of Schedule 1 to the Nationality, Immigration and Asylum Act 2002 (c. 41) and Schedule 3 to the Immigration, Asylum and Nationality Act 2006 (c. 13).

(b) 2014 c. 22.

(c) S.I. 2016/177, to which there are amendments not relevant to these Regulations.

(d) Treasury consent has been obtained pursuant to section 69(1) of the Immigration Act 2014.

(e) 2022 c. 36.

(f) S.I. 2007/3139.

- (a) the Channel Islands,
- (b) the Isle of Man, and
- (c) the British overseas territories within the meaning of the British Nationality Act 1981 (see section 50(1) of that Act)(a).

Amendments to the British Nationality (General) Regulations 2003

2.—(1) The British Nationality (General) Regulations 2003(b) are amended as follows.

(2) In Schedule 2—

- (a) in paragraph 11B—
 - (i) in sub-paragraph (a), for “or 3(5)” substitute “3(5) or 4D”(c);
 - (ii) in sub-paragraph (b), for “or 3(5)” substitute “, 3(5) or 4D”;
- (b) after paragraph 11E insert—

“Application under section 4K of the Act

11F. An application under section 4K of the Act(d) must contain information showing—

- (a) that the applicant—
 - (i) is entitled to be registered as a British overseas territories citizen under section 17A, 17C, 17D, 17E or 17F of the Act(e), otherwise than by virtue only of a connection with the Sovereign Base Areas of Akrotiri and Dhekelia, or
 - (ii) would be entitled to be registered as a British overseas territories citizen under any of those sections, otherwise than by virtue only of a connection with the Sovereign Base Areas of Akrotiri and Dhekelia, but for the fact that the applicant has already become a British overseas territories citizen under a different provision, and
- (b) where the applicant is aged 10 or over and the provision under which the applicant would be entitled to be registered as a British overseas territories citizen (as mentioned in section 17C(1)(b) of the Act) is section 15(3) or 17(2) or (5) of the Act, that the applicant is of good character.

Application under section 4L of the Act

11G.—(1) An application under section 4L of the Act(f) must specify the information to be considered by the Secretary of State in forming an opinion under section 4L of the Act about whether the applicant would have been, or would have been able to become, a British citizen but for—

- (a) historical legislative unfairness,
- (b) an act or omission of a public authority, or
- (c) exceptional circumstances relating to the applicant.

(2) The application must contain information showing that the applicant is of full capacity.

(3) Where sub-paragraph (4) applies, the application must also—

(a) The definition of “British overseas territory” in section 50(1) was inserted by section 1(1) of the British Overseas Territories Act 2002 (c. 8).

(b) S.I. 2003/548; relevant amending instruments are S.I. 2015/681, 2019/1164.

(c) Section 4D of the British Nationality Act 1981 was inserted by section 46 of the Borders, Citizenship and Immigration Act 2009 (c. 11).

(d) Section 4K of the British Nationality Act 1981 was inserted by section 4(2) of the Nationality and Borders Act 2022.

(e) Section 17A of the British Nationality Act 1981 was inserted by section 1(2) of the Nationality and Borders Act 2022, and sections 17C, 17D, 17E and 17F were inserted by section 2(2) of that Act.

(f) Section 4L of the British Nationality Act 1981 was inserted by section 8(2) of the Nationality and Borders Act 2022.

- (a) contain information showing that the applicant is of good character, or
 - (b) specify why the Secretary of State should not take into account whether the applicant is of good character in considering whether to grant the application.
- (4) This sub-paragraph applies where—
- (a) the application is made on the basis that the applicant would have been able to become a British citizen but for a matter mentioned in paragraph (a), (b) or (c) of sub-paragraph (1), and
 - (b) the process by which the applicant would have been able to become a British citizen would have involved the Secretary of State being required, under section 41A of the Act, to be satisfied that the applicant was of good character.
- (5) In this paragraph, “historical legislative unfairness” and “public authority” have the same meaning as in section 4L of the Act.”;
- (c) in paragraph 11F (inserted by regulation 2(2)(b)), in sub-paragraph (a)(i) for “or 17F” substitute “, 17F or 17H”;
 - (d) after paragraph 19 insert—

“Application under paragraph 3A of Schedule 2 to the Act

19A.—(1) An application under paragraph 3A of Schedule 2 to the Act(a) must contain information showing—

- (a) that the applicant is and always has been stateless,
 - (b) that the applicant seeks British citizenship and possesses the requisite qualifications in respect of residence, and
 - (c) that the applicant is unable to acquire another nationality in accordance with sub-paragraph (2).
- (2) A person is able to acquire a nationality in accordance with this sub-paragraph if—
- (a) the nationality is the same as that of one of the person’s parents,
 - (b) the person has been entitled to acquire the nationality since birth, and
 - (c) in all the circumstances, it is reasonable to expect the person (or someone acting on the person’s behalf) to take the steps which would enable the person to acquire the nationality in question.

(3) For the purposes of sub-paragraph (2)(b), a person is not entitled to acquire a nationality if its acquisition is conditional on the exercise of a discretion on the part of the country or territory in question.

(4) If the applicant does not possess the requisite qualifications in respect of residence and it is desired that the application should nevertheless be considered under paragraph 6 of Schedule 2 to the Act, the application must specify the special considerations to be taken into consideration.”

Amendments to the British Nationality (British Overseas Territories) Regulations 2007

3.—(1) The British Nationality (British Overseas Territories) Regulations 2007(b) are amended as follows.

- (2) In regulation 11—
- (a) the existing text becomes paragraph (1);
 - (b) after that paragraph insert—

(a) Paragraph 3A of Schedule 2 to the British Nationality Act 1981 was inserted by section 11(4) of the Nationality and Borders Act 2022.
 (b) S.I. 2007/3139.

“(2) Any consent required to be signified under section 17D(3) of the Act (consent of a person’s natural father and mother, or either of them) must be—

- (a) signified in writing, and
- (b) signed by the person signifying it.”

(3) In Schedule 2—

- (a) before paragraph 1 insert—

“Interpretation

A1. In this Schedule—

- (a) a reference to a person’s “natural father” is to be construed in accordance with section 17G(1) of the Act^(a);
- (b) a reference to a person automatically becoming a citizen of a certain type is to be construed in accordance with section 17G(4) of the Act.”;
- (b) in paragraph 4, after sub-paragraph (c) insert—
 - “(d) where the applicant is aged 10 or over, that the applicant is of good character.”;
- (c) omit paragraph 5;
- (d) after paragraph 6 insert—

“Application under section 17A of the Act

6A. The application must contain information showing—

- (a) that the applicant—
 - (i) would have become a citizen of the United Kingdom and Colonies under section 5 or 12(2), (3), (4) or (5) of, or paragraph 3 of Schedule 3 to, the British Nationality Act 1948^(b) if the applicant’s parents had been treated equally, by that Act or by any relevant previous provision, for the purposes of determining the applicant’s nationality status, or
 - (ii) would have been a citizen of the United Kingdom and Colonies immediately before commencement if the applicant’s parents had been treated equally, for the purposes of determining the applicant’s nationality status, by any independence legislation that caused the applicant to lose that citizenship,
- (b) that, if the applicant had become or been a citizen of the United Kingdom and Colonies as mentioned in sub-paragraph (a), the applicant would have become a British Dependent Territories citizen at commencement under section 23(1)(b) or (c) of the Act, and
- (c) that, if the applicant had become a British Dependent Territories citizen as mentioned in sub-paragraph (b), the applicant would have become a British overseas territories citizen on the commencement of section 2 of the British Overseas Territories Act 2002.

6B. In paragraph 6A, “independence legislation” and “relevant previous provision” have the same meaning as in section 17A of the Act.

Application under section 17C of the Act

6C. The application must contain information showing—

- (a) that the applicant would be entitled to be registered as a British overseas territories citizen under section 15(3) or 17(2) or (5) of, or paragraph 4 or 5 of Schedule 2 to,

(a) Section 17G of the British Nationality Act 1981 was inserted by section 2(2) of the Nationality and Borders Act 2022.

(b) 1948 c. 56 (11 & 12 Geo 6).

the Act if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth, and

- (b) where the applicant is aged 10 or over and the provision under which the applicant would be entitled to be registered as a British overseas territories citizen (as mentioned in section 17C(1)(b) of the Act) is section 15(3) or 17(2) or (5) of the Act, that the applicant is of good character.

6D. If the applicant would be entitled to be registered as a British overseas territories citizen under section 17(5) of the Act as mentioned in paragraph 6C(a) but for the fact that the parental consents referred to in subsection (4) of section 17C of the Act (power to waive requirement for parental consents)(a) have not been signified, the application must specify the special circumstances to be taken into consideration for the purposes of that subsection.

Application under section 17D of the Act

6E. The application must contain information showing—

- (a) that the applicant would, at any time in the period after commencement, have automatically become a British Dependent Territories citizen or a British overseas territories citizen at birth by the operation of section 15(1) or 16 of, or paragraph 1 of Schedule 2 to, the Act if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth,
- (b) that, in a case where the applicant would have become a British Dependent Territories citizen as mentioned in sub-paragraph (a), the applicant would then have automatically become a British overseas territories citizen by the operation of section 2 of the British Overseas Territories Act 2002, and
- (c) if the applicant is under the age of 18 (but subject to paragraph 6F) that the consent of the applicant's natural father and mother, or either of them, has been signified in accordance with section 17D(3) and (4) of the Act and regulation 11 and, if the consent of only one of those individuals has been signified, the reason for that.

6F. If the application is made without the consent of the applicant's natural father and mother having been signified, it must specify the special circumstances to be taken into consideration for the purposes of section 17D(5) of the Act (power to waive requirement for parental consents).

Application under section 17E of the Act

6G. The application must contain information showing—

- (a) that the applicant—
 - (i) was a citizen of the United Kingdom and Colonies immediately before commencement, or
 - (ii) would have become such a citizen under section 5 or 12(2), (3), (4) or (5) of, or paragraph 3 of Schedule 3 to, the British Nationality Act 1948 if the applicant's parents had been treated equally, by that Act or by any relevant previous provision, for the purposes of determining the applicant's nationality status, or
 - (iii) would have been such a citizen immediately before commencement if the applicant's parents had been treated equally, for the purposes of determining the applicant's nationality status, by any independence legislation that caused the applicant to lose that citizenship,
- (b) that the applicant would then have automatically become a British Dependent Territories citizen at commencement by the operation of section 23 of the Act, if

(a) See subsection (5) of section 17C for the meaning of the "parental consents" referred to in subsection (4).

the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth, and

- (c) that the applicant would then have automatically become a British overseas territories citizen by the operation of section 2 of the British Overseas Territories Act 2002.

6H. In paragraph 6G, “independence legislation” and “relevant previous provision” have the same meaning as in section 17A of the Act.

Application under section 17F of the Act

6I. The application must include information showing that the applicant—

- (a) ceased to be a British subject or a citizen of the United Kingdom and Colonies by virtue of the commencement of any independence legislation, but would not have done so if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth,
- (b) was a British subject who did not automatically become a citizen of the United Kingdom and Colonies at commencement of the British Nationality Act 1948 by operation of any provision of it, but would have done so if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth, or
- (c) would have automatically become a British subject or citizen of the United Kingdom and Colonies at birth, or by virtue of paragraph 3 of Schedule 3 to the British Nationality Act 1948, if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth.

6J. In paragraph 6I, “British subject” and “independence legislation” have the same meaning as in section 17F of the Act.

Application under section 17H of the Act(a)

6K. The application must contain information showing that the applicant is a direct descendant of a person (“P”) who was a citizen of the United Kingdom and Colonies by virtue of P's birth in the British Indian Ocean Territory or, prior to 8th November 1965, in those Islands designated as the British Indian Ocean Territory on that date.

Application under section 17I of the Act(b)

6L. The application must specify the information to be considered by the Secretary of State in forming an opinion under section 17I of the Act about whether the applicant would have been, or would have been able to become, a British overseas territories citizen but for—

- (a) historical legislative unfairness,
- (b) an act or omission of a public authority, or
- (c) exceptional circumstances relating to the applicant.

6M. The application must contain information showing that the applicant is of full capacity.

6N. Where paragraph 6O applies, the application must also—

- (a) contain information showing that the applicant is of good character, or

(a) Section 17H of the British Nationality Act 1981 was inserted by section 3 of the Nationality and Borders Act 2022.
(b) Section 17I of the British Nationality Act 1981 was inserted by section 8(3) of the Nationality and Borders Act 2022.

- (b) specify why the Secretary of State should not take into account whether the applicant is of good character in considering whether to grant the application.

6O. This paragraph applies where—

- (a) the application is made on the basis that the applicant would have been able to become a British overseas territories citizen but for a matter mentioned in subparagraph (a), (b) or (c) of paragraph 6L, and
- (b) the process by which the applicant would have been able to become a British overseas territories citizen would have involved the Secretary of State being required, under section 41A of the Act, to be satisfied that the applicant was of good character.

6P. In paragraph 6L, “historical legislative unfairness” and “public authority” have the same meaning as in section 17I of the Act.”;

- (e) after paragraph 22 insert—

“Application under paragraph 3A of Schedule 2 to the Act

22A. The application must contain information showing—

- (a) that the applicant is and always has been stateless,
- (b) that the applicant seeks British overseas territories citizenship and possesses the requisite qualifications in respect of residence, and
- (c) that the applicant is unable to acquire another nationality in accordance with paragraph 22B.

22B. A person is able to acquire a nationality in accordance with this paragraph if—

- (a) the nationality is the same as that of one of the person’s parents,
- (b) the person has been entitled to acquire the nationality since birth, and
- (c) in all the circumstances, it is reasonable to expect the person (or someone acting on the person’s behalf) to take the steps which would enable the person to acquire the nationality in question.

22C. For the purposes of paragraph 22B(b), a person is not entitled to acquire a nationality if its acquisition is conditional on the exercise of a discretion on the part of the country or territory in question.

22D. If the applicant does not possess the requisite qualifications in respect of residence and it is desired that the application should nevertheless be considered under paragraph 6 of Schedule 2 to the Act, it must specify the special considerations to be taken into consideration.”

Amendments to the Immigration and Nationality (Fees) Regulations 2018

4.—(1) The Immigration and Nationality (Fees) Regulations 2018(a) are amended as follows.

(2) In Schedule 8 (nationality)—

(a) in paragraph 1(1)—

- (i) in the definition of “application for registration as a British citizen under the 1981 Act”, after “or paragraph 3,” insert “3A,”;

(ii) at the end insert—

(a) S.I. 2018/330, to which there are amendments not relevant to these Regulations.

““historical legislative unfairness”, in relation to the basis on which an application is made under section 4L of the 1981 Act, has the same meaning as it has for the purposes of subsection (1)(a) of that section (see section 4L(2) of that Act);

“public authority” has the same meaning as it has for the purposes of section 4L of the 1981 Act (see section 4L(3) of that Act).”;

(b) in Table 19 (fees for applications relating to nationality)—

(i) after 19.1.2 insert—

“19.1A	Fee for applications for registration as a British citizen in special circumstances	
19.1A.1	Application for registration as a British citizen under section 4L of the 1981 Act made on the basis that the applicant would have been able to become a British citizen but for— (a) historical legislative unfairness, (b) an act or omission of a public authority, or (c) exceptional circumstances relating to the applicant.	£1,126”

(ii) in 19.2 in the second column, after “Fees for” insert “other”;

(iii) in 19.3 in the second column, after “Fees for” insert “other”.

31st May 2022

Kevin Foster
Parliamentary Under Secretary of State
Home Office

We consent

30th May 2022

Amanda Solloway
Michael Tomlinson
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the British Nationality (General) Regulations 2003, the British Nationality (British Overseas Territories) Regulations 2007 and the Immigration and Nationality (Fees) Regulations 2018. The amendments are made in connection with changes made by the Nationality and Borders Act 2022 (“the 2022 Act”) to Parts 1 and 2 of the British Nationality Act 1981 (“the 1981 Act”), which are concerned principally with the acquisition of British citizenship and British overseas territories citizenship.

Regulation 2 amends the British Nationality (General) Regulations 2003. Regulation 2(2)(a) amends paragraph 11B of Schedule 2 to those Regulations to reflect an amendment made to section 4F of the 1981 Act by section 7(3) of the 2022 Act, and to add to the circumstances in which an application for registration as a British citizen under section 4F must contain information showing that the applicant is of good character. Regulation 2(2)(b) and (d) makes provision about the information which must be contained in applications for registration as a British citizen under section 4K or 4L of the 1981 Act or under paragraph 3A of Schedule 2 to that Act. Regulation 2(2)(c) makes an amendment to one of the provisions inserted by regulation 2(2)(b) to take account of the later coming into force of section 3 of the 2022 Act.

Regulation 3 amends the British Nationality (British Overseas Territories) Regulations 2007. Regulation 3(2) amends regulation 11 of those Regulations to prescribe the manner in which parental consent to registration as a British overseas territories citizen under section 17D of the 1981 Act is to be signified. Regulation 3(3)(b) adds a requirement for certain applications under section 17(2) of the 1981 Act to contain information showing that the applicant is of good character. Regulation 3(3)(c) revokes paragraph 5 of Schedule 2 to the British Nationality (British Overseas Territories) Regulations 2007 to reflect amendments made to section 17 of the 1981 Act by section 5(1) of the 2022 Act. Regulation 3(3)(a), (d) and (e) makes provision about the information which must be contained in applications for registration as a British overseas territories citizen under section 17A, 17C, 17D, 17E, 17F, 17H or 17I of the 1981 Act or under paragraph 3A of Schedule 2 to that Act.

Regulation 4 amends the Immigration and Nationality (Fees) Regulations 2018. It sets fees for particular applications for registration as a British citizen under section 4L of the 1981 Act and for applications for registration as a British citizen under paragraph 3A of Schedule 2 to that Act.

A full impact assessment has not been produced for these Regulations because no, or no significant, impact on the private, voluntary or public sector is foreseen.

© Crown copyright 2022

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

<http://www.legislation.gov.uk/id/uksi/2022/602>

ISBN 978-0-34-823576-0



9 780348 235760