Immigration Act 2014

2014 CHAPTER 22

PART 6

MISCELLANEOUS

Citizenship

65 Persons unable to acquire citizenship: natural father not married to mother

After section 4D of the British Nationality Act 1981 insert—

"**4E The general conditions**

For the purposes of sections 4F to 4I, a person ("P") meets the general conditions if—

(a) P was born before 1 July 2006;

(b) at the time of P's birth, P's mother—

(i) was not married, or

(ii) was married to a person other than P's natural father;

(c) no person is treated as the father of P under section 28 of the Human Fertilisation and Embryology Act 1990; and

(d) P has never been a British citizen.

4F Person unable to be registered under other provisions of this Act

(1) A person ("P") is entitled to be registered as a British citizen on an application made under this section if—

(a) P meets the general conditions; and

(b) P would be entitled to be registered as a British citizen under—

(i) section 1(3),

(ii) section 3(2),

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(iii) section 3(5),
(iv) paragraph 4 of Schedule 2, or
(v) paragraph 5 of Schedule 2,

had P's mother been married to P's natural father at the time of P's birth.

(2) In the following provisions of this section "relevant registration provision" means the provision under which P would be entitled to be registered as a British citizen (as mentioned in subsection (1)(b)).

(3) If the relevant registration provision is section 3(2), a person who is registered as a British citizen under this section is a British citizen by descent.

(4) If the relevant registration provision is section 3(5), the Secretary of State may, in the special circumstances of the particular case, waive the need for any or all of the parental consents to be given.

(5) For that purpose, the "parental consents" are—
(a) the consent of P's natural father, and
(b) the consent of P's mother,

insofar as they would be required by section 3(5)(c) (as read with section 3(6)(b)), had P's mother been married to P's natural father at the time of P's birth.

4G Person unable to become citizen automatically after commencement

(1) A person ("P") is entitled to be registered as a British citizen on an application made under this section if—
(a) P meets the general conditions; and
(b) at any time in the period after commencement, P would have automatically become a British citizen at birth by the operation of any provision of this Act or the British Nationality (Falkland Islands) Act 1983, had P's mother been married to P's natural father at the time of P's birth.

(2) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at birth (as mentioned in subsection (1)(b)) would (by virtue of section 14) have been British citizenship by descent.

(3) If P is under the age of 18, no application may be made unless the consent of P's natural father and mother to the registration has been signified in the prescribed manner.

(4) But if P's natural father or mother has died on or before the date of the application, the reference in subsection (3) to P's natural father and mother is to be read as a reference to either of them.

(5) The Secretary of State may, in the special circumstances of a particular case, waive the need for any or all of the consents required by subsection (3) (as read with subsection (4)) to be given.

(6) The reference in this section to the period after commencement does not include the time of commencement (and, accordingly, this section does not apply to any case in which a person was unable to become a British citizen at commencement).

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4H Citizen of UK and colonies unable to become citizen at commencement

(1) A person ("P") is entitled to be registered as a British citizen on an application made under this section if—
  (a) P meets the general conditions;
  (b) P was a citizen of the United Kingdom and Colonies immediately before commencement; and
  (c) P would have automatically become a British citizen at commencement, by the operation of any provision of this Act, had P's mother been married to P's natural father at the time of P's birth.

(2) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at commencement (as mentioned in subsection (1)(c)) would (by virtue of section 14) have been British citizenship by descent.

4I Other person unable to become citizen at commencement

(1) A person ("P") is entitled to be registered as a British citizen on an application made under this section if—
  (a) P meets the general conditions;
  (b) P is either—
    (i) an eligible former British national, or
    (ii) an eligible non-British national; and
  (c) had P's mother been married to P's natural father at the time of P's birth, P—
    (i) would have been a citizen of the United Kingdom and Colonies immediately before commencement, and
    (ii) would have automatically become a British citizen at commencement by the operation of any provision of this Act.

(2) P is an "eligible former British national" if P was not a citizen of the United Kingdom and Colonies immediately before commencement and either—
  (a) P 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 had P's mother been married to P's natural father at the time of P's birth, or
  (b) P 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 the operation of any provision of it, but would have done so had P's mother been married to P's natural father at the time of P's birth.

(3) P is an "eligible non-British national" if—
  (a) P was never a British subject or citizen of the United Kingdom and Colonies; and
  (b) had P's mother been married to P's natural father at the time of P's birth, P would have automatically become a British subject or citizen of the United Kingdom and Colonies—
    (i) at birth, or

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(ii) by virtue of paragraph 3 of Schedule 3 to the British Nationality Act 1948 (child of male British subject to become citizen of the United Kingdom and Colonies if the father becomes such a citizen).

(4) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at commencement (as mentioned in subsection (1)(c)(ii)) would (by virtue of section 14) have been British citizenship by descent.

(5) In determining for the purposes of subsection (1)(c)(i) whether P would have been a citizen of the United Kingdom and Colonies immediately before commencement, it must be assumed that P would not have—

(a) renounced or been deprived of any notional British nationality, or

(b) lost any notional British nationality by virtue of P acquiring the nationality of a country or territory outside the United Kingdom.

(6) A "notional British nationality" is—

(a) in a case where P is an eligible former British national, any status as a British subject or a citizen of the United Kingdom and Colonies which P would have held at any time after P's nationality loss (had that loss not occurred and had P's mother had been married to P's natural father at the time of P's birth);

(b) in a case where P is an eligible non-British national—

(i) P's status as a British subject or citizen of the United Kingdom and Colonies mentioned in subsection (3)(b), and

(ii) any other status as a British subject or citizen of the United Kingdom and Colonies which P would have held at any time afterwards (had P's mother been married to P's natural father at the time of P's birth).

(7) In this section—

"British subject" has any meaning which it had for the purposes of the British Nationality and Status of Aliens Act 1914;

"independence legislation" means an Act of Parliament or any subordinate legislation (within the meaning of the Interpretation Act 1978) forming part of the law in the United Kingdom (whenever passed or made, and whether or not still in force)—

(a) providing for a country or territory to become independent from the United Kingdom, or

(b) dealing with nationality, or any other ancillary matters, in connection with a country or territory becoming independent from the United Kingdom;

"P's nationality loss" means P's—

(a) ceasing to be a British subject or citizen of the United Kingdom and Colonies (as mentioned in subsection (2)(a)), or

(b) not becoming a citizen of the United Kingdom and Colonies (as mentioned in subsection (2)(b)).

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4J Sections 4E to 4I: supplementary provision

(1) In sections 4E to 4I and this section, a person's "natural father" is a person who satisfies the requirements as to proof of paternity that are prescribed in regulations under section 50(9B).

(2) The power under section 50(9B) to make different provision for different circumstances includes power to make provision for the purposes of any provision of sections 4E to 4I which is different from other provision made under section 50(9B).

(3) The following provisions apply for the purposes of sections 4E to 4I.

(4) A reference to a person automatically becoming a British citizen, or a citizen of the United Kingdom and Colonies, is a reference to the person becoming such a citizen without the need for—

- (a) the person to be registered as such a citizen by the Secretary of State or any other minister of the Crown;
- (b) the birth of the person to be registered by a diplomatic or consular representative of the United Kingdom; or
- (c) the person to be naturalised as such a citizen.

(5) If the mother of a person could not actually have been married to the person's natural father at the time of the person's birth (for whatever reason), that fact does not prevent an assumption being made that the couple were married at the time of the birth."

Commencement Information

I1 S. 65 in force at 6.4.2015 by S.I. 2015/371, **art. 4(b)**

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2014/2771 by S.I. 2015/371 art. 78
- specified provision(s) savings for earlier commencing SI 2014/2771 by S.I. 2014/2928 art. 2 (Amendment already reflected in Appended Commentary in EXTOES for 2014 SI2771.)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21(4A) inserted by S.I. 2019/745 reg. 21(2)(b) (This amendment not applied to legislation.gov.uk. Reg. 21(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- s. 27(7) inserted by S.I. 2019/745 reg. 21(3)(b) (This amendment not applied to legislation.gov.uk. Reg. 21(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- s. 70A(6A) inserted by S.I. 2019/745 reg. 21(7)(c) (This amendment not applied to legislation.gov.uk. Reg. 21(7) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 3 para. 8A inserted by 2016 c. 19 Sch. 12 para. 16