

2006 No. 3145

IMMIGRATION

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

<i>Made</i> - - - -	<i>23rd November 2006</i>
<i>Laid before Parliament</i>	<i>29th November 2006</i>
<i>Coming into force</i> - -	<i>21st December 2006</i>

The Secretary of State, in exercise of the powers conferred by section 10(1) of the Nationality, Immigration and Asylum Act 2002(a), makes the following Regulations:

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(b);

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

“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(d), the High Commissioner for Her Majesty’s Government in the United Kingdom appointed to that country, and includes the acting High Commissioner; and

(a) 2002 c. 41. The powers in section 10(1) are extended by section 10(2), (3) and (6). Section 10(2)(c) has been amended by section 50(5) of the Immigration, Asylum and Nationality Act 2006 (c. 13) and section 10(2)(e) has been prospectively repealed by sections 52(7), 61 of, paragraph 4(a) and (b) of Schedule 2 to, and Schedule 3 to, the same Act. These amendments, however, have not yet been brought into force.

(b) 1971 c. 77.

(c) 1981 c. 61.

(d) 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.

“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
 - (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^(a);
 - (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^(b) 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;

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

(b) 2006 c. 15.

- (c) is not a person whose exercise of his right of abode is restricted under section 2 of the Immigration Act 1988^(a) (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^(b).

7. A certificate of entitlement is to be issued by means of being affixed to the passport or travel document of the applicant.

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

(a) 1988 c. 14.

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

SCHEDULE

Regulation 4(c)

Additional documents which must accompany an application for a certificate of entitlement

<i>Basis of application</i>	<i>Documents</i>
Applicant was registered or naturalised as a British citizen on or after 1st January 1983	Applicant's registration or naturalisation certificate
Applicant was born in the United Kingdom before 1st January 1983	Applicant's full birth certificate, showing parents' details
Applicant was registered or naturalised as a citizen of the United Kingdom and Colonies in the United Kingdom before 1st January 1983	Applicant's registration or naturalisation certificate
Applicant is a Commonwealth (not British) citizen born before 1st January 1983 to a parent who was born in the United Kingdom	(i) Applicant's full birth certificate showing parents' details; and (ii) Parent's full UK birth certificate
Applicant is a female Commonwealth citizen who was married before 1st January 1983 to a man with right of abode in the United Kingdom	(i) Applicant's marriage certificate; and (ii) Evidence of applicant's husband's right of abode, eg passport or UK birth certificate
Applicant was born in the United Kingdom or the Falkland Islands on or after 1st January 1983, or in another qualifying British overseas territory on or after 21st May 2002	(i) Applicant's full birth certificate showing parents' details; (ii) Evidence of either parent's British citizenship or settled status at time of applicant's birth, eg a passport describing the relevant parent as a British citizen or indicating that he or she then had indefinite leave to remain; and (iii) Parents' marriage certificate (if claiming through father)
Applicant was born outside the United Kingdom and the Falkland Islands on or after 1st January 1983, or outside the United Kingdom and any qualifying British overseas territory on or after 21st May 2002, to a parent born in the United Kingdom or the Falkland Islands (or, on/after 21 May 2002, any qualifying British overseas territory) or to a parent registered or naturalised in the United Kingdom prior to the applicant's birth	(i) Applicant's full birth certificate showing parents' details; (ii) Parents' marriage certificate (if claiming through father); and (iii) Parents' full birth certificate, registration or naturalisation certificate
Applicant was born outside the United Kingdom and the Falkland Islands on or after 1st January 1983, or outside the United Kingdom and any qualifying British overseas territory on or after 21 May 2002, to a parent who, at the time of the birth, was a British citizen in service to which section 2(1)(b) of the British Nationality Act 1981 applies	(i) Applicant's full birth certificate; (ii) Parents' marriage certificate (if claiming through father); and (iii) Evidence of parent's relevant employment at the time of the birth, eg a letter from the employer
Applicant was adopted in the United Kingdom, a qualifying British overseas territory, or otherwise under the terms of the Hague Convention on Intercountry Adoption ^(a)	(i) Applicant's adoption certificate; and (ii) Evidence of adoptive parents' citizenship and, if a Convention adoption, of their place of habitual residence at the time of the adoption, eg in respect of citizenship, a passport, and in

(a) Concluded at the Hague on 29th May 1993.

<i>Basis of application</i>	<i>Documents</i>
	respect of habitual residence at the time of the Convention adoption, the adoption certificate
Applicant was a citizen of the United Kingdom and Colonies and was ordinarily resident in the United Kingdom for a continuous period of 5 years before 1st January 1983 and was settled in the United Kingdom at the end of that period	(i) Evidence of citizenship of the United Kingdom and Colonies, eg a passport or certificate of naturalisation or registration; and (ii) Evidence of settlement and 5 years' ordinary residence in the UK before 1983, eg, passport, P60s, details of National Insurance contributions, DSS claims, employers' letters
Applicant was a citizen of the United Kingdom and Colonies and had a parent who was born, adopted, registered or naturalised in the United Kingdom prior to the applicant's birth/adoption	(i) Applicant's full birth certificate or adoption certificate; (ii) Parents' marriage certificate (if claiming through father); and (iii) Parent's full birth certificate, adoption, registration or naturalisation certificate
Applicant was a citizen of the United Kingdom and Colonies and had a grandparent born, adopted, registered or naturalised in the United Kingdom before the applicant's parent's birth/adoption	(i) Parents' marriage certificate (if claiming through father); (ii) Parents' full birth certificate or adoption certificate; (iii) Applicant's full birth certificate or adoption certificate; (iv) Grandparents' marriage certificate (if claiming through grandfather); and (v) Grandparent's full birth certificate, adoption, registration or naturalisation certificate

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide the procedure under which a person can apply for and obtain a Certificate of Entitlement to Right of Abode in the United Kingdom. Regulation 3 sets out the authority to which an application for a certificate must be submitted. The authority varies according to where the applicant for the certificate is located. Regulation 4 provides that an application must be accompanied by certain documents and Regulation 5 defines what is required in order for a passport to be valid for the purposes of an application. Regulations 6 and 7 provide when and how a certificate will be issued. Regulations 8 and 9 provide for when a certificate will expire and the circumstances in which a certificate can be revoked. Regulation 10 provides a saving for certificates that have been issued prior to these Regulations coming into force.

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