

2018 No. 618

BRITISH NATIONALITY

IMMIGRATION

NATIONALITY

**The Immigration and Nationality (Requirements for
Naturalisation and Fees) (Amendment) Regulations 2018**

<i>Made</i> - - - -	<i>23rd May 2018</i>
<i>Laid before Parliament</i>	<i>24th May 2018</i>
<i>Coming into force</i> - -	<i>30th May 2018</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 41(1)(ba) and (bb) and (3) of the British Nationality Act 1981^(a) and sections 68(1) and (10)(b), 69(2) and 74(8)(a) and (b) of the Immigration Act 2014^(b) and, in the case of provision made under the Act of 2014, with the consent of the Treasury and further to provision in the Immigration and Nationality (Fees) Order 2016^(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Immigration and Nationality (Requirements for Naturalisation and Fees) (Amendment) Regulations 2018.

(2) These Regulations come into force on 30th May 2018.

(3) The amendments made by regulations 2 and 3 (and the Schedule) have the same extent as the instrument they amend.

(4) The amendments made by regulation 4 have the same extent as the provision they amend.

(5) The amendment made by regulation 5 extends as provided for by regulation 1 of the Immigration and Nationality (Fees) Regulations 2018^(d) as amended by regulation 4 of these Regulations.

^(a) 1981 c. 61. Section 41(1) was amended by section 1 of the Nationality, Immigration and Asylum Act 2002 (c. 41). Other amendments have been made to section 41 but none are relevant for the purposes of these Regulations.

^(b) 2014 c. 22. Treasury consent has been obtained in pursuance of section 69(1) of the Immigration Act 2014 (“the 2014 Act”) to the provisions of these Regulations which are made under that Act. Sections 68 to 70 of the 2014 Act were extended, subject to specified modifications, to the Isle of Man by articles 5 and 7 of the Immigration (Isle of Man) (Amendment) Order 2015 (S.I. 2015/1765) which inserted new articles 22 and 23 and Schedule 9A into the Immigration (Isle of Man) Order 2008 (S.I. 2008/680); other amendments have been made to the Order of 2008 but none are relevant for the purposes of these Regulations. Sections 68 to 70 of the 2014 Act were also extended to the Bailiwick of Guernsey by article 4 of the Immigration (Guernsey) Order 2016 (S.I. 2016/996), subject to the modifications specified in the Schedule to that Order. Sections 68 to 70 of the 2014 Act were also extended to the Bailiwick of Jersey by article 3 of the Immigration (Jersey) Order 2016 (S.I. 2016/994), subject to the modifications specified in the Schedule to that Order.

^(c) S.I. 2016/177; amended by S.I. 2017/440 and S.I. 2018/329.

^(d) S.I. 2018/330.

Amendment of the British Nationality (General) Regulations 2003

2.—(1) Regulation 5A of the British Nationality (General) Regulations 2003(**a**) (knowledge of language and life in the United Kingdom) is amended as follows.

(2) In paragraph (1), at the end of paragraph (e) insert—

“; or

(f) is a relevant pre-1973 entrant; or

(g) is not within sub-paragraph (f) but is an eligible child of a pre-1973 entrant.”.

(3) In paragraph (2), at the end of paragraph (c) insert—

“; or

(d) is a relevant pre-1973 entrant; or

(e) is not within sub-paragraph (d) but is an eligible child of a pre-1973 entrant.”.

(4) At the end insert—

“(4) In this regulation “relevant pre-1973 entrant” means a person who is within paragraph (5) or (6).

(5) A person is within this paragraph if the person—

(a) has indefinite leave to enter or remain in the United Kingdom or any of the Islands by virtue of section 1(2) of the Immigration Act 1971(**b**) (persons settled in the United Kingdom or any of the Islands as at 1st January 1973(**c**)); and

(b) was, on 1st January 1973—

(i) a national of a country specified in Schedule 2B (certain members of the Commonwealth and British overseas territories etc.);

(ii) a citizen of the United Kingdom and Colonies(**d**) by virtue of a connection with a country or territory specified in that Schedule; or

(iii) a British subject without citizenship (see sections 13 and 16 of the British Nationality Act 1948(**e**) as then in force).

(6) A person is within this paragraph if the person—

(a) has the right of abode in the United Kingdom or any of the Islands by virtue of section 2(1)(b) of the Immigration Act 1971(**f**) (certain Commonwealth citizens with the right of abode);

(b) was, on 1st January 1973, ordinarily resident in the United Kingdom or any of the Islands; and

(c) has strong ties with the United Kingdom or any of the Islands.

(7) For the purposes of this regulation, a person (“C”) is an eligible child of a pre-1973 entrant if C—

(a) S.I. 2003/548. Regulation 5A was inserted by S.I. 2004/1726 and most recently substituted by S.I. 2013/2541. It was subsequently amended by S.I. 2015/681 and S.I. 2015/1806.

(b) 1971 c. 77. Section 1(2) of the Immigration Act 1971 (“the 1971 Act”) extends to the Isle of Man with modifications pursuant to article 6 of, and Schedule 3 to, S.I. 2008/680. It also extends, with modifications, to the Bailiwick of Guernsey pursuant to article 3 of, and Schedule 1 to, S.I. 1993/1796 and to the Bailiwick of Jersey pursuant to article 3 of, and Schedule 1 to, S.I. 1993/1797.

(c) 1st January 1973 was the date on which section 1(2) of the 1971 Act came into force. Section 1(2) (as extended) provides that a person settled in the United Kingdom or any of the Islands at its coming into force is to be treated as having been given indefinite leave to enter or remain in the United Kingdom or any of the Islands under that Act.

(d) Citizenship of the United Kingdom and Colonies was provided for by Part 2 of the British Nationality Act 1948 (c. 56). Part 2 of that Act was repealed by section 52 of, and Schedule 9 to, the British Nationality Act 1981 (c. 61) (“the 1981 Act”).

(e) 1948 c. 56. Sections 13 and 16 were repealed by section 52 of, and Schedule 9 to, the 1981 Act.

(f) Section 2 of the 1971 Act was substituted by section 39(2) of the 1981 Act. Section 2(2) of the 1971 Act was subsequently amended by section 3(3) of the Immigration Act 1988 (c. 14). Section 2 of the 1971 Act extends to the Isle of Man, with modifications, pursuant to article 6 of, and Schedule 3 to, S.I. 2008/680. It also extends, with modifications, to the Bailiwick of Guernsey pursuant to article 3 of, and Schedule 1 to, S.I. 1993/1796 and to the Bailiwick of Jersey pursuant to article 3 of, and Schedule 1 to, S.I. 1993/1797.

- (a) is the child (including an adopted child) of—
 - (i) a person who is (or was at the time of their death) a relevant pre-1973 entrant;
 - (ii) a person who is (or was at the time of their death) a British citizen and was, immediately before they became a British citizen, a relevant pre-1973 entrant; or
 - (iii) a pre-1973 deceased entrant;
- (b) was born outside the United Kingdom and the Islands;
- (c) entered the United Kingdom or any of the Islands on or after 1st January 1973 and was, at the time of entry, under the age of 18; and
- (d) is settled in the United Kingdom or any of the Islands and has, since C's entry as mentioned in sub-paragraph (c), been ordinarily resident in the United Kingdom or any of the Islands.

(8) In paragraph (7) “pre-1973 deceased entrant” means a person who—

- (a) died before 1st January 1973;
- (b) was settled in the United Kingdom or any of the Islands before their death; and
- (c) was, immediately before they died—
 - (i) a national of a country specified in Schedule 2B;
 - (ii) a citizen of the United Kingdom and Colonies by virtue of a connection with a country or territory specified in that Schedule; or
 - (iii) a British subject without citizenship.

(9) In paragraphs (5) to (8) “the United Kingdom” means England and Wales, Scotland and Northern Ireland.

(10) For the purposes of this regulation, a reference to a country or territory in Schedule 2B includes a reference to any former country or territory which forms part of the country or territory concerned.”.

3. After Schedule 2A to the British Nationality (General) Regulations 2003(a) insert Schedule 2B (certain members of the Commonwealth and British overseas territories etc.) as set out in the Schedule to these Regulations.

Amendment of the Immigration and Nationality (Fees) Regulations 2018

4. In regulation 1 of the Immigration and Nationality (Fees) Regulations 2018 (extent etc)—

- (a) in paragraph (4), after “11,” insert “13A,”
- (b) in paragraph (5), after “12,” insert “13A,”.

5. After regulation 13 of those Regulations insert—

“Windrush Scheme: power to waive fees

13A. The Secretary of State may waive any fee specified in these Regulations which would otherwise be payable by a person for or in connection with an application made under the Windrush Scheme(b).”.

Caroline Nokes
Minister of State
Home Office

23rd May 2018

(a) Schedule 2A to S.I. 2003/548 was inserted by S.I. 2013/2541. There are amendments to that Schedule but none are relevant for the purposes of these Regulations.

(b) The Windrush Scheme is accessible at: www.gov.uk.

We consent

Andrew Stephenson

Paul Maynard

23rd May 2018

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

Regulation 3

New Schedule 2B to the British Nationality (General) Regulations 2003

The new Schedule 2B to the British Nationality (General) Regulations 2003, to be inserted after Schedule 2A to those Regulations, is as follows—

“SCHEDULE 2B

Regulation 5A

CERTAIN MEMBERS OF THE COMMONWEALTH AND BRITISH OVERSEAS TERRITORIES ETC.

Anguilla

Antigua and Barbuda

Australia

The Bahamas

Bangladesh

Barbados

Belize

Bermuda

Botswana

British Antarctic Territory

British Indian Ocean Territory

Brunei

Canada

Cayman Islands

Cyprus, but excluding the Sovereign Base Areas of Akrotiri and Dhekelia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960^(a))

Dominica

Falkland Islands

Fiji

(a) 1960 c. 52.

The Gambia
Ghana
Gibraltar
Grenada
Guyana
Hong Kong
India
Jamaica
Kenya
Kiribati
Lesotho
Malawi
Malaysia
Maldives
Malta
Mauritius
Montserrat
Namibia
Nauru
New Zealand
Nigeria
Pakistan
Papua New Guinea
Pitcairn, Henderson, Ducie and Oeno Islands
Saint Christopher and Nevis
Saint Helena, Ascension and Tristan da Cunha
Saint Lucia
Saint Vincent and the Grenadines
Samoa
Seychelles
Sierra Leone
Singapore
Solomon Islands
South Georgia and the South Sandwich Islands
South Africa

Sri Lanka
Swaziland
Tanzania
Tonga
Trinidad and Tobago
Turks and Caicos Islands
Tuvalu
Uganda
Vanuatu
Virgin Islands
Zambia
Zimbabwe”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the British Nationality (General) Regulations 2003 (the “2003 Regulations”) and the Immigration and Nationality (Fees) Regulations 2018 (the “2018 Regulations”).

The 2003 Regulations set out the procedures and requirements relating to applications in connection with British nationality made under the British Nationality Act 1981 (the “1981 Act”). In particular, regulation 5A sets out the circumstances in which an applicant for naturalisation as a British citizen under section 6 of the 1981 Act is to be taken to have sufficient knowledge of the English language and about life in the United Kingdom for the purposes of the application. The 2018 Regulations specify the fees relating to immigration, nationality and associated functions.

The Home Office has set up a scheme, the Windrush Scheme, to deal with requests concerning the immigration or British nationality status of certain people who arrived in the United Kingdom before 1st January 1973, as well as people who arrived between that date and 31st December 1988. These Regulations make provision in connection with that scheme.

Regulations 2 and 3 amend the 2003 Regulations to provide that certain categories of persons applying for British citizenship under the Windrush Scheme (defined, broadly, by reference to their nationality and immigration status), are to be taken to have sufficient knowledge of English and of life in the United Kingdom for naturalisation purposes.

Regulations 4 and 5 amend the 2018 Regulations to confer power on the Secretary of State to waive any fee specified in those Regulations which would otherwise be payable by a person for or in connection with an application made under the Windrush Scheme.

Hard copies of the Windrush Scheme can be obtained from the Home Office, Fees and Income Planning Team, Corporate Services - Financial Planning Unit, 8th Floor, Southern House, Wellesley Grove, Croydon CR0 1XG.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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<http://www.legislation.gov.uk/id/uksi/2018/618>

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