

EXPLANATORY MEMORANDUM TO
THE BRITISH NATIONALITY (GENERAL)(AMENDMENT) ORDER 2019
2019 No. 1242

1. Introduction

- 1.1 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 2003 (“the 2003 Regulations”). They amend the existing provisions setting out how a person demonstrates they have sufficient knowledge of the English language for the purpose of an application for naturalisation as a British citizen under section 6 of the British Nationality Act 1981 (“the 1981 Act”).
- 2.2 These changes are being made to implement the prospective award of contracts for providing Secure English Language Testing services in the UK and abroad.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is to all of the United Kingdom. It additionally extends to the Channel Islands, the Isle of Man, and all of the British Overseas Territories.
- 4.2 The territorial application of this instrument is to all of the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 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. Regulation 5A of the 2003 Regulations sets out how applicants can demonstrate this.

- 6.2 Under the current text of regulation 5A, one of the ways applicants can demonstrate their knowledge of English language is by passing a test specified in Schedule 2A.
- 6.3 These regulations will remove from Schedule 2A the tables listing recognised Secure English Language Tests (SELTs). Regulation 5A is amended so that a person will have sufficient knowledge of the English language if they pass a SELT which is at a level equivalent to level B1 or above on the Council of Europe's Common European Framework of Reference for Languages: Learning, Teaching, Assessment; and was taken no more than two years before the date of the application for naturalisation. The tests are delivered by a test provider which has been approved by the Secretary of State for this purpose.
- 6.4 Details of Secure English Language Tests and approved test providers will be published in due course on the UK Visas and Immigration pages of Gov.uk (and available in hard copy from the Nationality Policy Team, Home Office, 2 Marsham Street, London SW1P 4DF) when appropriate.

7. Policy background

What is being done and why?

- 7.1 SELT services are currently provided both in the UK and abroad by commercial providers, under licence from the Home Office. In November 2018, the Home Office tendered a contract for the provision of SELT services both in the UK and abroad.
- 7.2 The 2003 Regulations currently provide that someone has sufficient knowledge of the English language, for naturalisation, if they have passed a test specified in the regulations.
- 7.3 The dates at which the individual SELT providers will be approved by the Home Office and ready to begin testing will vary between providers. To allow for this and to reduce the risk of gaps in provision of tests, the tables listing the tests and approved providers will be published on Gov.uk (and will be available in hard copy from the Nationality Policy Team, Home Office, 2 Marsham Street, London SW1P 4DF) and updated once individual providers are approved as ready to deliver testing services by the Home Office. This will allow for greater flexibility when the Home Office needs amend the list of approved SELT providers.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 There are no plans to consolidate the 2003 Regulations.

10. Consultation outcome

- 10.1 These changes have not been subject to consultation.

11. Guidance

- 11.1 Guidance will be updated to reflect this change. The updated lists of approved test providers will be published by the Home Office at www.gov.uk and will be available

in hard copy from the Nationality Policy Team, Home Office, 2 Marsham Street, London SW1P 4DF.

12. Impact

- 12.1 There is potential for impact on businesses involved in the provision of English language tests. However, the procurement process for the new English language test providers complied with relevant regulatory requirements and all relevant bodies had the opportunity to bid for inclusion in the list of approved English language test providers. There is no, or no significant, impact on charities or voluntary bodies.
- 12.2 The impact on the public sector will be limited to the Home Office.
- 12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The regulation does not include a statutory review clause and is not subject to review.

15. Contact

- 15.1 Gareth Edwards at the Home Office email: nationalitypolicy@homeoffice.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Kristian Armstrong, Deputy Director for Passport and Nationality Policy, at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Williams of Trafford at the Home Office can confirm that this Explanatory Memorandum meets the required standard.