

Changes to legislation: There are currently no known outstanding effects for the Nationality and Borders Act 2022, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 9

WAIVER OF REQUIREMENT OF PRESENCE IN UK ETC

Amendments to the British Nationality Act 1981

1 The British Nationality Act 1981 is amended as follows.

Commencement Information

- I1** Sch. 1 para. 1 not in force at Royal Assent, see **s. 87(1)**
I2 Sch. 1 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

2 (1) Section 4 (acquisition by registration: British overseas territories citizens etc) is amended as follows.

(2) In subsection (4)—

(a) before paragraph (a) insert—

“(za) treat the person to whom the application relates as fulfilling the first requirement specified in subsection (2)(a) although the person was not in the United Kingdom at the beginning of the period there mentioned;”;

(b) in paragraph (a), for “requirement specified in subsection (2)(a) or” substitute “second requirement specified in subsection (2)(a) or the requirement specified in”.

(3) After subsection (4) insert—

“(4A) Subsection (4B) applies where, on an application for registration as a British citizen made by a person to whom this section applies, the applicant has indefinite leave to enter or remain in the United Kingdom.

(4B) The Secretary of State may for the purposes of subsection (2) treat the applicant as fulfilling the requirement specified in subsection (2)(d), without enquiring into whether or not the applicant was in the United Kingdom in breach of the immigration laws in the period there mentioned.

(4C) The reference in subsection (4A) to having indefinite leave to enter or remain is to be construed in accordance with the Immigration Act 1971.”

Commencement Information

- I3** Sch. 1 para. 2 not in force at Royal Assent, see **s. 87(1)**
I4 Sch. 1 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

3 (1) Schedule 1 (requirements for naturalisation) is amended as follows.

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- (2) In paragraph 2 (naturalisation as a British citizen under section 6(1): waiver of requirements in special circumstances)—
- (a) in sub-paragraph (1), before paragraph (a) insert—
 - “(za) treat the applicant as fulfilling the first requirement specified in paragraph 1(2)(a) although the applicant was not in the United Kingdom at the beginning of the period there mentioned;”;
 - (b) in that sub-paragraph, in paragraph (a), for “requirement specified in paragraph 1(2)(a) or” substitute “second requirement specified in paragraph 1(2)(a) or the requirement specified in”;
 - (c) after that sub-paragraph insert—
 - “(1A) Sub-paragraph (1B) applies where the applicant has indefinite leave to enter or remain in the United Kingdom.
 - (1B) The Secretary of State may for the purposes of paragraph 1 treat the applicant as fulfilling the requirement specified in paragraph 1(2)(d), without enquiring into whether or not the applicant was in the United Kingdom in breach of the immigration laws in the period there mentioned.
 - (1C) The reference in sub-paragraph (1A) to having indefinite leave to enter or remain is to be construed in accordance with the Immigration Act 1971.”;
 - (d) omit sub-paragraphs (2) and (3).
- (3) In paragraph 4, in paragraph (a)—
- (a) for “the reference” substitute “the references”;
 - (b) for “a reference” substitute “references”.
- (4) In paragraph 6 (naturalisation as a British overseas territories citizen under section 18(1): waiver of requirements in special circumstances)—
- (a) the existing text becomes sub-paragraph (1);
 - (b) before paragraph (a) of that sub-paragraph insert—
 - “(za) treat the applicant as fulfilling the first requirement specified in paragraph 5(2)(a) although the applicant was not in the relevant territory at the beginning of the period there mentioned;”;
 - (c) in paragraph (a) of that sub-paragraph, for “requirement specified in paragraph 5(2)(a) or” substitute “second requirement specified in paragraph 5(2)(a) or the requirement specified in”;
 - (d) after that sub-paragraph insert—
 - “(2) Sub-paragraph (3) applies where the applicant has indefinite leave to enter or remain in the relevant territory.
 - (3) The Secretary of State may for the purposes of paragraph 5 treat the applicant as fulfilling the requirement specified in paragraph 5(2)(d), without enquiring into whether or not the applicant was in the relevant territory in breach of the immigration laws in the period there mentioned.

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(4) The reference in sub-paragraph (2) to having indefinite leave to enter or remain is to be construed as a reference to any status formally granted under the immigration laws in force in the relevant territory which is broadly equivalent to the status of having indefinite leave to enter or remain under the Immigration Act 1971.”

- (5) In paragraph 8, in paragraph (a)—
- (a) for “the reference” substitute “the references”;
 - (b) for “a reference” substitute “references”.

Commencement Information

- I5** Sch. 1 para. 3 not in force at Royal Assent, see **s. 87(1)**
I6 Sch. 1 para. 3(1)-(3)(4)(a)-(c)(5) in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

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- I1** Sch. 1 para. 1 not in force at Royal Assent, see **s. 87(1)**
I2 Sch. 1 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)
I3 Sch. 1 para. 2 not in force at Royal Assent, see **s. 87(1)**
I4 Sch. 1 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)
I5 Sch. 1 para. 3 not in force at Royal Assent, see **s. 87(1)**
I6 Sch. 1 para. 3(1)-(3)(4)(a)-(c)(5) in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

Consequential amendment

- 4 In section 1 of the Citizenship (Armed Forces) Act 2014 (applications for citizenship by members or former members of armed forces), omit subsection (3).

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- I7** Sch. 1 para. 4 not in force at Royal Assent, see **s. 87(1)**
I8 Sch. 1 para. 4 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

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