

**EXPLANATORY MEMORANDUM TO
THE IMMIGRATION (CERTIFICATE OF ENTITLEMENT TO RIGHT OF
ABODE IN THE UNITED KINGDOM) REGULATIONS 2006**

2006 No. 3145

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Description**
 - 2.1 The Regulations prescribe the procedure for applying for a certificate of entitlement to the right of abode in the United Kingdom, and make supplementary provision about eligibility for and the revocation of such certificates.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.

4. **Legislative Background**
 - 4.1 A certificate of entitlement is a document specified in section 3(9) of the Immigration Act 1971 that suffices as proof of the holder's right of abode in the United Kingdom under section 2 of that Act. The procedure for obtaining such a certificate is currently unregulated, except in regard to the fee payable with the application and the right of appeal that exists against a refusal to issue a certificate of entitlement. (Provision in respect of these matters is made by The Consular Fees Order 2005 (SI 2005 No. 1465) and Part 5 of the Nationality, Immigration and Asylum Act 2002 respectively.)
 - 4.2 Section 10 of the Nationality, Immigration and Asylum Act 2002 empowers the Secretary of State to make provision by regulations for the issue to a person of a certificate that he has the right of abode in the United Kingdom. It was introduced due to concern that the lack of regulation made the process of obtaining certificates of entitlement vulnerable to fraud.
 - 4.3 These Regulations are the first use of the power conferred by Section 10 of the 2002 Act.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 In making the provision for regulation in section 10 of the Nationality, Immigration and Asylum Act 2002, the Government was reacting to concern on the part of officials tasked with considering applications and policing entry to the United Kingdom that the lack of regulation made the process and its outcome uniquely vulnerable to fraud.

7.2. The 2006 Regulations seek to address this vulnerability by

- limiting eligibility for certificates of entitlement to those who are unable to prove their right of abode here by any other means (for example, by producing a British passport);
- prescribing, as the means for issuing a certificate of entitlement, its placing in a valid national passport or travel document;
- limiting the period of validity of the certificate of entitlement to that of the passport or travel document in which it is placed; and
- providing for the revocation of certificates of entitlement found to have been issued in error or to persons who, on various grounds, were or have become ineligible to hold them.

7.3 Separately, the certificate is itself being redesigned so to enhance the physical security and integrity of the document.

7.4 The changes made by the Regulations are being brought to the attention of those who regularly represent applicants and will be reflected in the application form and guidance notes made available for their use.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is nil.

9. Contact

Anthony Pilgrim at the Home Office Tel: 0151 237 5312 or e-mail:
Anthony.pilgrim@homeoffice.gsi.gov.uk can answer any queries regarding
the instrument.