

2009 No. 3363

BRITISH NATIONALITY

**The British Nationality (General) (Amendment) Regulations
2009**

<i>Made</i> - - - -	15th December 2009
<i>Laid before Parliament</i>	23rd December 2009
<i>Coming into force</i> - -	13th January 2010

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 41(1)(a), (b) and (3) of the British Nationality Act 1981(a):

1. These Regulations may be cited as the British Nationality (General) (Amendment) Regulations 2009 and shall come into force on 13th January 2010.

2. The British Nationality (General) Regulations 2003(b) shall be amended as follows.

3. For regulation 14 (manner of signifying parental consent to registration) substitute—

“Manner of signifying parental consent to registration

14. Where a parent, in pursuance of section 3(5)(c) or 4D(3)(c) of the Act, consents to the registration of a person as a British citizen under subsection 3(5)(d) or section 4D, the consent shall be expressed in writing and signed by the parent.”

4. In Schedule 2—

(1) After paragraph 1 insert —

“Application under section 1(3A) of the Act

1A. An application under section 1(3A)(e) shall contain information showing—

- (a) that the applicant’s father or mother became a member of the armed forces after the applicant’s birth; and
- (b) where the applicant is aged 10 or over, that he is of good character.”

(2) Omit paragraph 5.

(a) 1981 c.61, section 41(3) was amended by section 3 of and paragraphs 3 and 6 of Schedule 1 to the Nationality Immigration and Asylum Act 2002 (c.41); and amended by sections 52(7) and 61 of, paragraph 1(b) of Schedule 2 to and Schedule 3 to the Immigration, Asylum and Nationality Act 2006 (c.13).

(b) SI 2003/548, which has been amended by: SI 2003/3158; SI 2004/1726; SI 2005/214; SI 2005/2785; and SI 2007/3137.

(c) Section 4D was inserted into the British Nationality Act 1981 by section 46 of the Borders, Citizenship and Immigration Act 2009 (c.11) which comes into force on 13th January 2010 (SI 2009/2731).

(d) Section 3(5) was amended by section 5 of and paragraph 3(1) and (4) of Schedule 1 to the British Overseas Territories Act 2002 (c.8).

(e) Section 1(3A) was inserted into the British Nationality Act 1981 by section 42(4) of the Borders, Citizenship and Immigration Act 2009 which comes into force on 13th January 2009 (SI 2009/2731).

(3) For paragraph 10 (application under section 4B of the Act) substitute—

“Application under section 4B of the Act

10. An application under section 4B(a) of the Act shall contain information showing—

- (a) that the applicant is a British Overseas citizen, a British subject under the Act, a British protected person or a British National (Overseas) and does not have any other citizenship or nationality; and
- (b) (i) in the case of an application made by virtue of subsection (1)(a), (b) or (c), that the applicant has not, after 4th July 2002, renounced, voluntarily relinquished or lost through action or inaction, any citizenship or nationality; or
- (ii) in the case of an application made by virtue of subsection (1)(d), that the applicant has not, after 19th March 2009, renounced, voluntarily relinquished or lost through action or inaction, any citizenship or nationality.”.

(4) For paragraph 11(b) (application under section 4C of the Act) substitute—

“Application under section 4C of the Act

11. An application under section 4C(c) of the Act shall contain information showing—

- (a) that the applicant was born before 1st January 1983;
- (b) that the applicant would at some time before 1st January 1983 have become a citizen of the United Kingdom and Colonies—
 - (i) under section 5 or 12(2) of, or paragraph 3 of Schedule 3 to, the British Nationality Act 1948(d) if (as the case may be) that section or paragraph provided for citizenship by descent from a mother in the same terms as it provided for citizenship by descent from a father and if references in that provision to a father were references to the applicant’s mother; or
 - (ii) under section 12(2), (3), (4) or (5) of the British Nationality Act 1948 if a provision of the law at some time before 1st January 1949, which provided for a nationality status to be acquired by descent from a father, provided in the same terms for its acquisition by descent from a mother and if references in that provision to a father were references to the applicant’s mother;
- (c) that immediately before 1st January 1983 the applicant would have had the right of abode in the United Kingdom by virtue of section 2 of the Immigration Act 1971(e) had he become a citizen of the United Kingdom and Colonies as described in either sub-paragraph (b)(i) or (ii) above; and
- (d) that he is of good character.”.

(5) After paragraph 11 insert—

“Application under section 4D of the Act

11A.—(1) An application under section 4D of the Act shall contain information showing—

(a) Section 4B was inserted into the British Nationality Act 1981 by section 12(1) of the Nationality, Immigration and Asylum Act 2002 and was amended by section 44 of the Borders, Citizenship and Immigration Act 2009 which comes into force on 13th January 2009 (SI 2009/2731).

(b) Schedule 2, paragraph 11 was amended by regulation 4(1) and (3) of SI 2007/3137.

(c) Section 4C was inserted into the British Nationality Act 1981 by section 13(1) of the Nationality, Immigration and Asylum Act 2002 and was amended by section 45 of the Borders, Citizenship and Immigration Act 2009 which comes into force on 13th January 2009 (SI 2009/2731).

(d) 1948 c.56.

(e) 1971 c.77.

- (a) that the applicant's father or mother was a member of the armed forces and serving outside of the United Kingdom and qualifying territories at the time of the applicant's birth;
- (b) that the consent of the applicant's father and/or mother (as required by section 4D(3) and (4) of the Act) has been signified in accordance with regulation 14 and, if the consent of one parent only has been signified, the reason for that fact; and
- (c) where the applicant is aged 10 or over, that he is of good character.

(2) If the application is made without the consent of the applicant's father and/or mother and it is desired that the application should nevertheless be considered under section 4D(5) of the Act, it shall specify the special circumstances to be taken into consideration.”.

Home Office
15th December 2009

Phil Woolas
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the British Nationality (General) Regulations 2003 (“the 2003 Regulations”) with effect from 13th January 2010.

Regulation 14 of the 2003 Regulations prescribes the manner in which individuals are required to signify parental consent to the registration of a child as a British citizen under section 3(5)(c) of the British Nationality Act 1981 (‘the Act’). Regulation 3 substitutes a new regulation 14 of the 2003 Regulations so as to extend its effect to applications made under section 4D of the Act, which also comes into force on 13th January 2010.

Schedule 2 to the 2003 Regulations sets out the manner in which specified applications under the Act must be made. Regulation 4 inserts new paragraphs 1A and 11A into, amends paragraphs 10 and 11 and repeals paragraph 5 of that Schedule. This reflects amendments made to the Act by virtue of the Borders, Citizenship and Immigration Act 2009, which also come into force on 13th January 2010.

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STATUTORY INSTRUMENTS

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