

2015 No. 681

BRITISH NATIONALITY

**The British Nationality (General) (Amendment No. 2)
Regulations 2015**

<i>Made</i>	- - - -	<i>11th March 2015</i>
<i>Laid before Parliament</i>		<i>16th March 2015</i>
<i>Coming into force</i>	- -	<i>6th April 2015</i>

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

Citation and commencement

1. These Regulations may be cited as the British Nationality (General) (Amendment No. 2) Regulations 2015 and come into force on 6th April 2015.

Amendments to the British Nationality (General) Regulations 2003

2. The British Nationality (General) Regulations 2003(b) are amended in accordance with regulations 3 to 5.

Amendments to Regulation 5A

3.—(1) Regulation 5A(c) (knowledge of language and life in the United Kingdom) is amended as follows.

(2) In paragraph (1), at the beginning, insert “Subject to paragraph (1A),”.

(3) After paragraph (1), insert—

“(1A) Where the Secretary of State has reasonable grounds to suspect that a person used deception in relation to a test or qualification mentioned in sub-paragraph (a), (b) or (d) of paragraph (1) and relied upon by that person in his or her application for naturalisation, the Secretary of State may—

(a) disregard that test or qualification; and

(b) require that person to take or (as the case may be) retake and pass a test specified in Schedule 2A for the purpose of demonstrating that he or she has sufficient knowledge of the English language.”

(a) 1981 c. 61; subsection (1)(ba) and (bb) of section 41 was inserted by section 1(3), and subsection (1A) by section 1(4), of the Nationality, Immigration and Asylum Act 2002 (c. 41).

(b) S.I. 2003/548, as amended by S.I. 2003/3158, S.I. 2004/1726, S.I. 2004/2109, S.I. 2005/2114, S.I. 2005/2785, S.I. 2007/3137, S.I. 2009/3363, S.I. 2010/785, S.I. 2011/1043, S.I. 2012/1588, S.I. 2013/2541 and S.I. 2014/1465, and as prospectively amended by the British Nationality (General) (Amendment) Regulations 2015.

(c) Regulation 5A was inserted by S.I. 2004/1726 and substituted by S.I. 2005/2785 and S.I. 2013/2541.

(4) In paragraph (2), at the beginning, insert “Subject to paragraph (3),”.

(5) After paragraph (2), insert—

“(3) Where the Secretary of State has reasonable grounds to suspect that a person used deception in relation to a test mentioned in sub-paragraph (a) or (b) of paragraph (2) and relied upon by that person in his or her application for naturalisation, the Secretary of State may—

- (a) disregard that test; and
- (b) require that person to retake and pass the test mentioned in sub-paragraph (a) or (b) of paragraph (2) for the purpose of demonstrating that he or she has sufficient knowledge about life in the United Kingdom.”

Amendments to Schedule 2

4.—(1) Schedule 2 (particular requirements as respects applications) is amended as follows.

(2) Before paragraph 1, insert—

“Interpretation

A1. In this Schedule—

- (a) a reference to a person’s “natural father” is to be construed in accordance with section 4J(1) of the Act(a);
- (b) a reference to a person automatically becoming a British citizen, or a citizen of the United Kingdom and Colonies, is to be construed in accordance with section 4J(4) of the Act.”

(3) After paragraph 11A, insert—

“Application under section 4F of the Act

11B. An application under section 4F of the Act(b) shall contain information showing—

- (a) that the applicant would be entitled to be registered as a British Citizen under section 1(3), 3(2), or 3(5) of, or paragraph 4 or 5 of Schedule 2 to, the Act(c), had his mother been married to his natural father at the time of his birth; and
- (b) where the applicant is aged 10 or over, that he is of good character.

Application under section 4G of the Act

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

- (a) that the applicant would have automatically become a British citizen by birth by operation of any provision of the Act or the British Nationality (Falkland Islands) Act 1983(e) (“the 1983 Act”), at any time in the period after commencement of the Act or (as the case may be) the 1983 Act, had his mother been married to his natural father at the time of his birth; and
- (b) where the applicant is aged 10 or over, that he is of good character.

(a) Section 4J is inserted by section 65 of the Immigration Act 2014 (c. 22).

(b) Section 4F is inserted by section 65 of the Immigration Act 2014.

(c) Section 1(3) was amended by section 41(3) of the Borders, Citizenship and Immigration Act 2009 (c. 11). Section 3(2) was amended by paragraph 3(2) of Schedule 5 to the British Overseas Territories Act 2002 (c. 8) and section 41(2) of the Borders, Citizenship and Immigration Act 2009. Section 3(5) was amended by paragraph 3(4) of Schedule 5 to the British Overseas Territories Act 2002. Paragraph 4 of Schedule 2 was amended by sections 1(1)(b) and 2(2)(b) of the British Overseas Territories Act 2002.

(d) Section 4G is inserted by section 65 of the Immigration Act 2014.

(e) 1983 c. 6.

Application under section 4H of the Act

- 11D.** An application under section 4H of the Act(a) shall contain information showing—
- (a) that the applicant was a citizen of the United Kingdom and Colonies immediately before commencement of the Act;
 - (b) that the applicant would have automatically become a British citizen at commencement of the Act, by the operation of any provision of the Act, had his mother been married to his natural father at the time of his birth; and
 - (c) that the applicant is of good character.

Application under section 4I of the Act

11E.—(1) An application under section 4I of the Act(b) shall contain information showing—

- (a) that the applicant—
 - (i) ceased to be a British subject or a citizen of the United Kingdom and Colonies by virtue of the commencement of any independence legislation, but would not have done so had his mother been married to his natural father at the time of his birth;
 - (ii) was a British subject who did not automatically become a citizen of the United Kingdom and Colonies at commencement of the British Nationality Act 1948(c) by the operation of any provision of it, but would have done so had his mother been married to his natural father at the time of his birth; or
 - (iii) would have automatically become a British subject or citizen of the United Kingdom and Colonies at birth or by virtue of paragraph 3 of Schedule 3 to the British Nationality Act 1948(d), had his mother been married to his natural father at the time of his birth; and
- (b) that the applicant is of good character.

(2) In this paragraph, “British subject” and “independence legislation” have the same meaning as in section 4I(7) of the Act.”

Amendments to Schedule 2A

5.—(1) Paragraph 1 of Schedule 2A(e) (specified English language tests and qualifications) is amended as follows.

(2) In paragraph 1 the existing provision becomes sub-paragraph (1).

(3) For paragraph (c) substitute—

- “(c) a test specified in Table 1, where the test is taken within the United Kingdom, or Table 2, where the test is taken outside the United Kingdom, which—
- (i) 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;
 - (ii) was taken at an approved English language test centre; and
 - (iii) was taken no more than two years before the date of the application for naturalisation.”

(4) After sub-paragraph (1), insert—

(a) Section 4H is inserted by section 65 of the Immigration Act 2014.
(b) Section 4I is inserted by section 65 of the Immigration Act 2014.
(c) 1948 c. 56.
(d) Schedule 3 was repealed by section 52(8) of, and Schedule 9 to, the British Nationality Act 1981.
(e) Schedule 2A was inserted by S.I. 2013/2541 and amended by S.I. 2014/1465.

“(2) In this paragraph—

“approved English language test centre” means a test centre which has been approved by the Secretary of State for the purpose of an application for naturalisation(a);

“United Kingdom” has the same meaning as in Schedule 1 to the Interpretation Act 1978(b).

Table 1

Recognised English Language Tests within the United Kingdom

<i>Awarding body</i>	<i>Specified English language test</i>
Cambridge English	IELTS (International English Language Testing System) IELTS (International English Language Testing System) Life Skills
Trinity College London	Integrated Skills in English
Trinity College London	Graded Examinations in Spoken English

Table 2

Recognised English Language Tests outside the United Kingdom

<i>Awarding body</i>	<i>Specified English language test</i>
Cambridge English	IELTS (International English Language Testing System) IELTS (International English Language Testing System) Life Skills”

Transitional provision

6. The amendments made by regulation 5 do not apply to an application for naturalisation made before 6th November 2015 which relies on a recognised English language test or qualification specified at that time in Schedule 2A to the British Nationality (General) Regulations 2003 which was taken or (as the case may be) completed before 6th April 2015, except so far as an applicant is required to take a test under regulation 5A(1A)(b) of those Regulations.

Home Office
11th March 2015

James Brokenshire
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”), which detail the procedures and requirements relating to applications in connection with British nationality made under the British Nationality Act 1981 (“the 1981 Act”).

Regulation 3 amends regulation 5A of the 2003 Regulations, which sets out how applicants for naturalisation as a British citizen under section 6 of the 1981 Act must demonstrate sufficient knowledge of the English language and life in the United Kingdom. Paragraphs (2) to (5) of

(a) A list of approved English language test centres can be found on the Home Office pages of the gov.uk website. A hard copy of the list will be made available from the Home Office on request.

(b) 1978 c. 30.

regulation 3 amend the 2003 Regulations to enable the Secretary of State to require an applicant to take and pass a (further) English language or Life in the UK test for the purpose of their application in cases where the Secretary of State has reasonable grounds to suspect that the applicant used deception in relation to a test or qualification which the applicant is relying upon to show knowledge of English language or life in the United Kingdom.

Regulation 4 inserts into Schedule 2 to the 2003 Regulations new paragraphs A1 and 11B to 11E, which specify the information that must be included in applications for registration as a British citizen made under sections 4F to 4I of the 1981 Act. Those sections, together with 4E and 4J, are inserted into the 1981 Act by section 65 of the Immigration Act 2014 (c. 22), which also comes into force on 6th April 2015.

Regulation 5 amends sub-paragraph 1(c) of Schedule 2A to the 2003 Regulations to specify that English language tests must be taken at test centres which have been approved by the Secretary of State, no more than two years before the date of application. It further replaces the table of recognised English language tests and qualifications with two tables specifying recognised English language tests respectively within and outside the United Kingdom.

Under regulation 6, transitional provision is made for applications for naturalisation made before 6th November 2015 where the test or qualification specified in Schedule 2A of the 2003 Regulations was taken or (as the case may be) completed before 6th April 2015. By virtue of section 50(8) of the 1981 Act, an application for naturalisation is made at the time of its receipt by a person authorised to receive it on behalf of the person to whom it is made.

An impact assessment has not been produced for this instrument as limited impact on the private or voluntary sector is foreseen.

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