

BORDERS, CITIZENSHIP AND IMMIGRATION ACT 2009

EXPLANATORY NOTES

SUMMARY

Part 2 – Citizenship

14. [Sections 39 to 41](#) amend section 6 and parts of Schedule 1 to the British Nationality Act 1981 (“BNA 1981”), which relate to naturalisation as a British citizen. Section 6 of the BNA 1981 sets out the circumstances in which the Secretary of State may grant a certificate of naturalisation as a British citizen, and amended paragraphs 1 to 4B of Schedule 1 contain the revised qualifying criteria.
15. [Section 42](#) amends section 1 of the BNA 1981, to provide that children born in the UK or a qualifying territory on or after the commencement of that section to members of the armed forces will automatically become British citizens if their father or mother is a member of the armed forces at the time of their birth. It also provides for a child born in the UK or a qualifying territory on or after the commencement of the section to be registered as a British citizen if the child’s father or mother becomes a member of the armed forces while the child is a minor.
16. [Section 43](#) amends section 3(2) of the BNA 1981 to remove the requirement that an application for the registration of a child under that subsection must be made within twelve months of the child’s birth. This will enable an application to be made at any time before the child’s 18th birthday.
17. [Section 44](#) amends section 4B of the BNA 1981. This adds British Nationals (Overseas) to those who are eligible to apply for registration under this section, which currently includes British Overseas citizens, British subjects and British protected persons. The amendment will allow British Nationals (Overseas) to be registered as British citizens if they do not hold any other citizenship or nationality, and have not done anything to effect the loss of another citizenship or nationality since 19 March 2009.
18. [Section 45](#) amends section 4C of the BNA 1981 to remove the requirement that an applicant for registration under that section must be born after 7 February 1961. This will enable applicants born before 7 February 1961 to be able to register as British citizens, if they would have become British had the previous nationality law allowed their mother to pass on nationality in the same way as their father could. The amendments made by the section also widen the scope of section 4C so that it is no longer restricted to the case where the applicant would otherwise have become a citizen of the United Kingdom and Colonies (“CUKC”) under section 5 of the British Nationality Act 1948 (“BNA 1948”).
19. [Section 46](#) creates a new registration route in the BNA 1981 for children of members of the armed forces born outside the UK and the qualifying territories on or after the commencement of the section to become British citizens.

These notes refer to the Borders, Citizenship and Immigration Act 2009 (c.11) which received Royal Assent on 21 July 2009

20. [Section 47](#) moves the requirement for nationality applicants applying for registration to be “of good character” from section 58 of the Immigration, Asylum and Nationality Act 2006 (“IANA 2006”) into each of the Acts which contain the relevant registration routes. It also adds a “good character” requirement in the case of an application for registration under section 1(3A), 3(2) or 4D of the BNA 1981.
21. [Section 48](#) moves the definition of being “in breach of the immigration laws” from section 11 of the Nationality, Immigration and Asylum Act 2002 (“NIAA 2002”) to the BNA 1981, and updates the references to being a qualified person under European Community law.
22. [Section 49](#) creates various new definitions for the purposes of the BNA 1981 which are relevant to the amendments made to that Act by sections 40 to 43 and 47.