



# Immigration Act 2014

## 2014 CHAPTER 22

### PART 6

#### MISCELLANEOUS

##### *Citizenship*

#### **65 Persons unable to acquire citizenship: natural father not married to mother**

After section 4D of the British Nationality Act 1981 insert—

##### **“4E The general conditions**

For the purposes of sections 4F to 4I, a person (“P”) meets the general conditions if—

- (a) P was born before 1 July 2006;
- (b) at the time of P’s birth, P’s mother—
  - (i) was not married, or
  - (ii) was married to a person other than P’s natural father;
- (c) no person is treated as the father of P under section 28 of the Human Fertilisation and Embryology Act 1990; and
- (d) P has never been a British citizen.

##### **4F Person unable to be registered under other provisions of this Act**

(1) A person (“P”) is entitled to be registered as a British citizen on an application made under this section if—

- (a) P meets the general conditions; and
- (b) P would be entitled to be registered as a British citizen under—
  - (i) section 1(3),
  - (ii) section 3(2),

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- (iii) section 3(5),
- (iv) paragraph 4 of Schedule 2, or
- (v) paragraph 5 of Schedule 2,

had P's mother been married to P's natural father at the time of P's birth.

- (2) In the following provisions of this section “relevant registration provision” means the provision under which P would be entitled to be registered as a British citizen (as mentioned in subsection (1)(b)).
- (3) If the relevant registration provision is section 3(2), a person who is registered as a British citizen under this section is a British citizen by descent.
- (4) If the relevant registration provision is section 3(5), the Secretary of State may, in the special circumstances of the particular case, waive the need for any or all of the parental consents to be given.
- (5) For that purpose, the “parental consents” are—
  - (a) the consent of P's natural father, and
  - (b) the consent of P's mother,insofar as they would be required by section 3(5)(c) (as read with section 3(6)(b)), had P's mother been married to P's natural father at the time of P's birth.

#### **4G Person unable to become citizen automatically after commencement**

- (1) A person (“P”) is entitled to be registered as a British citizen on an application made under this section if—
  - (a) P meets the general conditions; and
  - (b) at any time in the period after commencement, P would have automatically become a British citizen at birth by the operation of any provision of this Act or the British Nationality (Falkland Islands) Act 1983, had P's mother been married to P's natural father at the time of P's birth.
- (2) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at birth (as mentioned in subsection (1)(b)) would (by virtue of section 14) have been British citizenship by descent.
- (3) If P is under the age of 18, no application may be made unless the consent of P's natural father and mother to the registration has been signified in the prescribed manner.
- (4) But if P's natural father or mother has died on or before the date of the application, the reference in subsection (3) to P's natural father and mother is to be read as a reference to either of them.
- (5) The Secretary of State may, in the special circumstances of a particular case, waive the need for any or all of the consents required by subsection (3) (as read with subsection (4)) to be given.
- (6) The reference in this section to the period after commencement does not include the time of commencement (and, accordingly, this section does not apply to any case in which a person was unable to become a British citizen at commencement).

#### **4H Citizen of UK and colonies unable to become citizen at commencement**

- (1) A person (“P”) is entitled to be registered as a British citizen on an application made under this section if—
  - (a) P meets the general conditions;
  - (b) P was a citizen of the United Kingdom and Colonies immediately before commencement; and
  - (c) P would have automatically become a British citizen at commencement, by the operation of any provision of this Act, had P’s mother been married to P’s natural father at the time of P’s birth.
- (2) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at commencement (as mentioned in subsection (1)(c)) would (by virtue of section 14) have been British citizenship by descent.

#### **4I Other person unable to become citizen at commencement**

- (1) A person (“P”) is entitled to be registered as a British citizen on an application made under this section if—
  - (a) P meets the general conditions;
  - (b) P is either—
    - (i) an eligible former British national, or
    - (ii) an eligible non-British national; and
  - (c) had P’s mother been married to P’s natural father at the time of P’s birth, P—
    - (i) would have been a citizen of the United Kingdom and Colonies immediately before commencement, and
    - (ii) would have automatically become a British citizen at commencement by the operation of any provision of this Act.
- (2) P is an “eligible former British national” if P was not a citizen of the United Kingdom and Colonies immediately before commencement and either—
  - (a) P 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 P’s mother been married to P’s natural father at the time of P’s birth, or
  - (b) P 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 by the operation of any provision of it, but would have done so had P’s mother been married to P’s natural father at the time of P’s birth.
- (3) P is an “eligible non-British national” if—
  - (a) P was never a British subject or citizen of the United Kingdom and Colonies; and
  - (b) had P’s mother been married to P’s natural father at the time of P’s birth, P would have automatically become a British subject or citizen of the United Kingdom and Colonies—
    - (i) at birth, or

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- (ii) by virtue of paragraph 3 of Schedule 3 to the British Nationality Act 1948 (child of male British subject to become citizen of the United Kingdom and Colonies if the father becomes such a citizen).
- (4) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at commencement (as mentioned in subsection (1)(c)(ii)) would (by virtue of section 14) have been British citizenship by descent.
- (5) In determining for the purposes of subsection (1)(c)(i) whether P would have been a citizen of the United Kingdom and Colonies immediately before commencement, it must be assumed that P would not have—
- (a) renounced or been deprived of any notional British nationality, or
  - (b) lost any notional British nationality by virtue of P acquiring the nationality of a country or territory outside the United Kingdom.
- (6) A “notional British nationality” is—
- (a) in a case where P is an eligible former British national, any status as a British subject or a citizen of the United Kingdom and Colonies which P would have held at any time after P’s nationality loss (had that loss not occurred and had P’s mother had been married to P’s natural father at the time of P’s birth);
  - (b) in a case where P is an eligible non-British national—
    - (i) P’s status as a British subject or citizen of the United Kingdom and Colonies mentioned in subsection (3)(b), and
    - (ii) any other status as a British subject or citizen of the United Kingdom and Colonies which P would have held at any time afterwards (had P’s mother been married to P’s natural father at the time of P’s birth).
- (7) In this section—
- “British subject” has any meaning which it had for the purposes of the British Nationality and Status of Aliens Act 1914;
- “independence legislation” means an Act of Parliament or any subordinate legislation (within the meaning of the Interpretation Act 1978) forming part of the law in the United Kingdom (whenever passed or made, and whether or not still in force)—
- (a) providing for a country or territory to become independent from the United Kingdom, or
  - (b) dealing with nationality, or any other ancillary matters, in connection with a country or territory becoming independent from the United Kingdom;
- “P’s nationality loss” means P’s—
- (a) ceasing to be a British subject or citizen of the United Kingdom and Colonies (as mentioned in subsection (2)(a)), or
  - (b) not becoming a citizen of the United Kingdom and Colonies (as mentioned in subsection (2)(b)).

#### **4J Sections 4E to 4I: supplementary provision**

- (1) In sections 4E to 4I and this section, a person’s “natural father” is a person who satisfies the requirements as to proof of paternity that are prescribed in regulations under section 50(9B).
- (2) The power under section 50(9B) to make different provision for different circumstances includes power to make provision for the purposes of any provision of sections 4E to 4I which is different from other provision made under section 50(9B).
- (3) The following provisions apply for the purposes of sections 4E to 4I.
- (4) A reference to a person automatically becoming a British citizen, or a citizen of the United Kingdom and Colonies, is a reference to the person becoming such a citizen without the need for—
  - (a) the person to be registered as such a citizen by the Secretary of State or any other minister of the Crown;
  - (b) the birth of the person to be registered by a diplomatic or consular representative of the United Kingdom; or
  - (c) the person to be naturalised as such a citizen.
- (5) If the mother of a person could not actually have been married to the person’s natural father at the time of the person’s birth (for whatever reason), that fact does not prevent an assumption being made that the couple were married at the time of the birth.”

#### **66 Deprivation if conduct seriously prejudicial to vital interests of the UK**

- (1) In section 40 of the British Nationality Act 1981 (deprivation of citizenship), after subsection (4) insert—

“(4A) But that does not prevent the Secretary of State from making an order under subsection (2) to deprive a person of a citizenship status if—

  - (a) the citizenship status results from the person’s naturalisation,
  - (b) the Secretary of State is satisfied that the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory, and
  - (c) the Secretary of State has reasonable grounds for believing that the person is able, under the law of a country or territory outside the United Kingdom, to become a national of such a country or territory.”
- (2) In deciding whether to make an order under subsection (2) of section 40 of the British Nationality Act 1981 in a case which falls within subsection (4A) of that Act, the Secretary of State may take account of the manner in which a person conducted him or herself before this section came into force.
- (3) After section 40A of the British Nationality Act 1981 insert—

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**“40B Review of power under section 40(4A)**

- (1) The Secretary of State must arrange for a review of the operation of the relevant deprivation power to be carried out in relation to each of the following periods—
  - (a) the initial one year period;
  - (b) each subsequent three year period.
- (2) The “relevant deprivation power” is the power to make orders under section 40(2) to deprive persons of a citizenship status in the circumstances set out in section 40(4A).
- (3) A review must be completed as soon as practicable after the end of the period to which the review relates.
- (4) As soon as practicable after a person has carried out a review in relation to a particular period, the person must—
  - (a) produce a report of the outcome of the review, and
  - (b) send a copy of the report to the Secretary of State.
- (5) The Secretary of State must lay before each House of Parliament a copy of each report sent under subsection (4)(b).
- (6) The Secretary of State may, after consultation with the person who produced the report, exclude a part of the report from the copy laid before Parliament if the Secretary of State is of the opinion that it would be contrary to the public interest or prejudicial to national security for that part of the report to be made public.
- (7) The Secretary of State may—
  - (a) make such payments as the Secretary of State thinks appropriate in connection with the carrying out of a review, and
  - (b) make such other arrangements as the Secretary of State thinks appropriate in connection with the carrying out of a review (including arrangements for the provision of staff, other resources and facilities).
- (8) In this section—
 

“initial one year period” means the period of one year beginning with the day when section 40(4A) comes into force;

“subsequent three year period” means a period of three years beginning with the first day after the most recent of—

  - (a) the initial one year period, or
  - (b) the most recent subsequent three year period.”

*Embarkation checks*

**67 Embarkation checks**

Schedule 8 (embarkation checks) has effect.

## *Fees*

### **68 Fees**

- (1) The Secretary of State may provide, in accordance with this section, for fees to be charged in respect of the exercise of functions in connection with immigration or nationality.
- (2) The functions in respect of which fees are to be charged are to be specified by the Secretary of State by order (“a fees order”).
- (3) A fees order—
  - (a) must specify how the fee in respect of the exercise of each specified function is to be calculated, and
  - (b) may not provide for a fee to be charged in respect of the exercise of a function otherwise than in connection with an application or claim, or on request.
- (4) For any specified fee, a fees order must provide for it to comprise one or more amounts each of which is—
  - (a) a fixed amount, or
  - (b) an amount calculated by reference to an hourly rate or other factor.
- (5) Where a fees order provides for a fee (or part of a fee) to be a fixed amount, it—
  - (a) must specify a maximum amount for the fee (or part), and
  - (b) may specify a minimum amount.
- (6) Where a fees order provides for a fee (or part of a fee) to be calculated as mentioned in subsection (4)(b), it—
  - (a) must specify—
    - (i) how the fee (or part) is to be calculated, and
    - (ii) a maximum rate or other factor, and
  - (b) may specify a minimum rate or other factor.
- (7) For any specified fee, the following are to be set by the Secretary of State by regulations (“fees regulations”)—
  - (a) if the fee (or any part of it) is to be a fixed amount, that amount;
  - (b) if the fee (or any part of it) is to be calculated as mentioned in subsection (4)(b), the hourly rate or other factor by reference to which it (or that part) is to be calculated.
- (8) An amount, or rate or other factor, set by fees regulations for a fee in respect of the exercise of a specified function—
  - (a) must not—
    - (i) exceed the maximum specified for that amount, or rate or other factor;
    - (ii) be less than the minimum, if any, so specified;
  - (b) subject to that, may be intended to exceed, or result in a fee which exceeds, the costs of exercising the function.
- (9) In setting the amount of any fee, or rate or other factor, in fees regulations, the Secretary of State may have regard only to—
  - (a) the costs of exercising the function;

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- (b) benefits that the Secretary of State thinks are likely to accrue to any person in connection with the exercise of the function;
- (c) the costs of exercising any other function in connection with immigration or nationality;
- (d) the promotion of economic growth;
- (e) fees charged by or on behalf of governments of other countries in respect of comparable functions;
- (f) any international agreement.

This is subject to section 69(5).

- (10) In respect of any fee provided for under this section, fees regulations may—
- (a) provide for exceptions;
  - (b) provide for the reduction, waiver or refund of part or all of a fee (whether by conferring a discretion or otherwise);
  - (c) make provision about—
    - (i) the consequences of failure to pay a fee;
    - (ii) enforcement;
    - (iii) when a fee may or must be paid.
- (11) Any provision that may be made by fees regulations by virtue of subsection (10) may be included instead in a fees order (and any provision so included may be amended or revoked by fees regulations).
- (12) In this section and sections 69 and 70—
- “costs” includes—
    - (a) the costs of the Secretary of State, and
    - (b) the costs of any other person (whether or not funded from public money);
  - “fees order” has the meaning given by subsection (2);
  - “fees regulations” has the meaning given by subsection (7);
  - “function” includes a power or a duty;
  - “function in connection with immigration or nationality” includes a function in connection with an enactment (including an enactment of a jurisdiction outside the United Kingdom) that relates wholly or partly to immigration or nationality;
  - “specified” means specified in a fees order.
- (13) Any reference in this section or section 70 to the exercise of a function includes a reference to its exercise in particular circumstances, including its exercise—
- (a) at particular times or in a particular place;
  - (b) under particular arrangements;
  - (c) otherwise in particular ways,
- and, for this purpose, “arrangements” includes arrangements for the convenience of applicants, claimants or persons making requests for the exercise of a function.

## **69 Fees orders and fees regulations: supplemental**

- (1) A fees order or fees regulations may be made only with the consent of the Treasury.
- (2) A fee under section 68 may relate to something done outside the United Kingdom.



- (3) Fees payable by virtue of section 68 may be recovered as a debt due to the Secretary of State.
- (4) Fees paid to the Secretary of State by virtue of section 68 must—
  - (a) be paid into the Consolidated Fund, or
  - (b) be applied in such other way as the relevant order may specify.
- (5) Section 68 is without prejudice to—
  - (a) section 1 of the Consular Fees Act 1980 (fees for consular acts etc);
  - (b) section 102 of the Finance (No. 2) Act 1987 (government fees and charges), or
  - (c) any other power to charge a fee.

## **70 Power to charge fees for attendance services in particular cases**

- (1) This section applies where a person exercises a function in connection with immigration or nationality in respect of which a fee is chargeable by virtue of a fees order (a “chargeable function”) in a particular case and—
  - (a) in doing so attends at a place outside the United Kingdom, and time, agreed with a person (“the client”), and
  - (b) does so at the request of the client.

It is immaterial whether or not the client is a person in respect of whom the chargeable function is exercised.

- (2) In this section “attendance service” means the service described in subsection (1) except so far as it consists of the exercise of a chargeable function.
- (3) The following are to be disregarded in determining whether a fee is chargeable in respect of a function by virtue of a fees order—
  - (a) any exception provided for by a fees order or fees regulations;
  - (b) any power so provided to waive or refund a fee.
- (4) The person exercising the chargeable function may charge the client such fee for the purposes of recovering the costs of providing the attendance service as the person may determine.
- (5) Fees paid to the Secretary of State by virtue of this section must be paid into the Consolidated Fund.
- (6) A fee payable by virtue of this section may be recovered as a debt due to the Secretary of State.
- (7) This section is without prejudice to—
  - (a) section 68;
  - (b) section 1 of the Consular Fees Act 1980 (fees for consular acts etc);
  - (c) section 102 of the Finance (No. 2) Act 1987 (government fees and charges), or
  - (d) any other power to charge a fee.

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*Welfare of children*

**71 Duty regarding the welfare of children**

For the avoidance of doubt, this Act does not limit any duty imposed on the Secretary of State or any other person by section 55 of the Borders, Citizenship and Immigration Act 2009 (duty regarding the welfare of children).