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STATUTORY INSTRUMENTS

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**2022 No. 602**

**The British Nationality (General, British Overseas Territories and Fees) (Amendment) Regulations 2022**

**Amendments to the British Nationality (British Overseas Territories) Regulations 2007**

**3.**—(1) The British Nationality (British Overseas Territories) Regulations 2007(1) are amended as follows.

(2) In regulation 11—

- (a) the existing text becomes paragraph (1);
- (b) after that paragraph insert—

“(2) Any consent required to be signified under section 17D(3) of the Act (consent of a person’s natural father and mother, or either of them) must be—

- (a) signified in writing, and
- (b) signed by the person signifying it.”

(3) In Schedule 2—

- (a) 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 17G(1) of the Act(2);
- (b) a reference to a person automatically becoming a citizen of a certain type is to be construed in accordance with section 17G(4) of the Act.”;

(b) in paragraph 4, after sub-paragraph (c) insert—

“(d) where the applicant is aged 10 or over, that the applicant is of good character.”;

(c) omit paragraph 5;

(d) after paragraph 6 insert—

**“Application under section 17A of the Act**

**6A.** The application must contain information showing—

- (a) that the applicant—
  - (i) would have become a citizen of the United Kingdom and Colonies under section 5 or 12(2), (3), (4) or (5) of, or paragraph 3 of Schedule 3 to, the British Nationality Act 1948(3) if the applicant’s parents had

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(1) [S.I. 2007/3139](#).

(2) Section 17G of the British Nationality Act 1981 was inserted by section 2(2) of the Nationality and Borders Act 2022.

(3) [1948 c. 56](#) (11 & 12 Geo 6).

been treated equally, by that Act or by any relevant previous provision, for the purposes of determining the applicant's nationality status, or

- (ii) would have been a citizen of the United Kingdom and Colonies immediately before commencement if the applicant's parents had been treated equally, for the purposes of determining the applicant's nationality status, by any independence legislation that caused the applicant to lose that citizenship,
- (b) that, if the applicant had become or been a citizen of the United Kingdom and Colonies as mentioned in sub-paragraph (a), the applicant would have become a British Dependent Territories citizen at commencement under section 23(1)(b) or (c) of the Act, and
- (c) that, if the applicant had become a British Dependent Territories citizen as mentioned in sub-paragraph (b), the applicant would have become a British overseas territories citizen on the commencement of section 2 of the British Overseas Territories Act 2002.

**6B.** In paragraph 6A, “independence legislation” and “relevant previous provision” have the same meaning as in section 17A of the Act.

#### **Application under section 17C of the Act**

**6C.** The application must contain information showing—

- (a) that the applicant would be entitled to be registered as a British overseas territories citizen under section 15(3) or 17(2) or (5) of, or paragraph 4 or 5 of Schedule 2 to, the Act if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth, and
- (b) where the applicant is aged 10 or over and the provision under which the applicant would be entitled to be registered as a British overseas territories citizen (as mentioned in section 17C(1)(b) of the Act) is section 15(3) or 17(2) or (5) of the Act, that the applicant is of good character.

**6D.** If the applicant would be entitled to be registered as a British overseas territories citizen under section 17(5) of the Act as mentioned in paragraph 6C(a) but for the fact that the parental consents referred to in subsection (4) of section 17C of the Act (power to waive requirement for parental consents)<sup>(4)</sup> have not been signified, the application must specify the special circumstances to be taken into consideration for the purposes of that subsection.

#### **Application under section 17D of the Act**

**6E.** The application must contain information showing—

- (a) that the applicant would, at any time in the period after commencement, have automatically become a British Dependent Territories citizen or a British overseas territories citizen at birth by the operation of section 15(1) or 16 of, or paragraph 1 of Schedule 2 to, the Act if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth,
- (b) that, in a case where the applicant would have become a British Dependent Territories citizen as mentioned in sub-paragraph (a), the applicant would then have automatically become a British overseas territories citizen by the operation of section 2 of the British Overseas Territories Act 2002, and

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(4) See subsection (5) of section 17C for the meaning of the “parental consents” referred to in subsection (4).

- (c) if the applicant is under the age of 18 (but subject to paragraph 6F) that the consent of the applicant's natural father and mother, or either of them, has been signified in accordance with section 17D(3) and (4) of the Act and regulation 11 and, if the consent of only one of those individuals has been signified, the reason for that.

**6F.** If the application is made without the consent of the applicant's natural father and mother having been signified, it must specify the special circumstances to be taken into consideration for the purposes of section 17D(5) of the Act (power to waive requirement for parental consents).

#### **Application under section 17E of the Act**

**6G.** The application must contain information showing—

- (a) that the applicant—
  - (i) was a citizen of the United Kingdom and Colonies immediately before commencement, or
  - (ii) would have become such a citizen under section 5 or 12(2), (3), (4) or (5) of, or paragraph 3 of Schedule 3 to, the British Nationality Act 1948 if the applicant's parents had been treated equally, by that Act or by any relevant previous provision, for the purposes of determining the applicant's nationality status, or
  - (iii) would have been such a citizen immediately before commencement if the applicant's parents had been treated equally, for the purposes of determining the applicant's nationality status, by any independence legislation that caused the applicant to lose that citizenship,
- (b) that the applicant would then have automatically become a British Dependent Territories citizen at commencement by the operation of section 23 of the Act, if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth, and
- (c) that the applicant would then have automatically become a British overseas territories citizen by the operation of section 2 of the British Overseas Territories Act 2002.

**6H.** In paragraph 6G, "independence legislation" and "relevant previous provision" have the same meaning as in section 17A of the Act.

#### **Application under section 17F of the Act**

**6I.** The application must include information showing that the applicant—

- (a) 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 if the applicant's mother been married to the applicant's natural father at the time of the applicant's birth,
- (b) 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 operation of any provision of it, but would have done so if the applicant's mother had been married to the applicant's natural father at the time of the applicant's birth, or
- (c) 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, if the applicant’s mother had been married to the applicant’s natural father at the time of the applicant’s birth.

**6J.** In paragraph 6I, “British subject” and “independence legislation” have the same meaning as in section 17F of the Act.

**Application under section 17H of the Act(5)**

**6K.** The application must contain information showing that the applicant is a direct descendant of a person (“P”) who was a citizen of the United Kingdom and Colonies by virtue of P’s birth in the British Indian Ocean Territory or, prior to 8th November 1965, in those Islands designated as the British Indian Ocean Territory on that date.

**Application under section 17I of the Act(6)**

**6L.** The application must specify the information to be considered by the Secretary of State in forming an opinion under section 17I of the Act about whether the applicant would have been, or would have been able to become, a British overseas territories citizen but for—

- (a) historical legislative unfairness,
- (b) an act or omission of a public authority, or
- (c) exceptional circumstances relating to the applicant.

**6M.** The application must contain information showing that the applicant is of full capacity.

**6N.** Where paragraph 6O applies, the application must also—

- (a) contain information showing that the applicant is of good character, or
- (b) specify why the Secretary of State should not take into account whether the applicant is of good character in considering whether to grant the application.

**6O.** This paragraph applies where—

- (a) the application is made on the basis that the applicant would have been able to become a British overseas territories citizen but for a matter mentioned in sub-paragraph (a), (b) or (c) of paragraph 6L, and
- (b) the process by which the applicant would have been able to become a British overseas territories citizen would have involved the Secretary of State being required, under section 41A of the Act, to be satisfied that the applicant was of good character.

**6P.** In paragraph 6L, “historical legislative unfairness” and “public authority” have the same meaning as in section 17I of the Act.”;

(e) after paragraph 22 insert—

**“Application under paragraph 3A of Schedule 2 to the Act**

**22A.** The application must contain information showing—

- (a) that the applicant is and always has been stateless,
- (b) that the applicant seeks British overseas territories citizenship and possesses the requisite qualifications in respect of residence, and

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(5) Section 17H of the British Nationality Act 1981 was inserted by section 3 of the Nationality and Borders Act 2022.

(6) Section 17I of the British Nationality Act 1981 was inserted by section 8(3) of the Nationality and Borders Act 2022.

- (c) that the applicant is unable to acquire another nationality in accordance with paragraph 22B.

**22B.** A person is able to acquire a nationality in accordance with this paragraph if—

- (a) the nationality is the same as that of one of the person’s parents,
- (b) the person has been entitled to acquire the nationality since birth, and
- (c) in all the circumstances, it is reasonable to expect the person (or someone acting on the person’s behalf) to take the steps which would enable the person to acquire the nationality in question.

**22C.** For the purposes of paragraph 22B(b), a person is not entitled to acquire a nationality if its acquisition is conditional on the exercise of a discretion on the part of the country or territory in question.

**22D.** If the applicant does not possess the requisite qualifications in respect of residence and it is desired that the application should nevertheless be considered under paragraph 6 of Schedule 2 to the Act, it must specify the special considerations to be taken into consideration.”