STATUTORY INSTRUMENTS

2015 No. 738

BRITISH NATIONALITY

The British Nationality (General) (Amendment) Regulations 2015

Made - - - - 16th March 2015

Coming into force in accordance with regulation 1(1)

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 41(1)(bza), (1ZB), (1ZC), (1ZD) and (3) of the British Nationality Act 1981(**1**).

In accordance with section 41(8)(b) of that Act(**2**), a draft of these Regulations was laid before and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the British Nationality (General) (Amendment) Regulations 2015 and come into force at the end of the period of 21 days beginning with the day on which they are made.

(2) In these Regulations "the 2003 Regulations" means the British Nationality (General) Regulations 2003(**3**).

Amendment of the 2003 Regulations

2.—(1) The 2003 Regulations are amended as follows.

(2) In regulation 2(1) (interpretation), in the appropriate place insert—

""immigration rules" means rules made under section 3(2) of the Immigration Act 1971(**4**);".

(3) After regulation 7 insert—

(**1**) 1981 c. 61; section 41(1)(bza) was inserted by section 10(2) of the Immigration Act 2014 (c. 22) and section 41(1ZB), (1ZC) and (1ZD) was inserted by section 10(3) of that Act.
(**2**) Section 41(8)(b) was inserted by section 41(5) of the Borders, Citizenship and Immigration Act 2009 (c. 11) and amended by section 10(4) of the Immigration Act 2014.
(**3**) S.I. 2003/548, amended by S.I. 2007/3137. There are other amending instruments but none is relevant.
(**4**) 1971 c. 77.

"PART IIA

Biometric Information and Citizenship

Provision of biometric information with citizenship applications

7A.—(1) Subject to regulation 7B, where an individual makes an application for registration or naturalisation as a British citizen, an authorised person may require the individual to provide biometric information.

(2) Where an authorised person requires an individual to provide biometric information in accordance with paragraph (1), the individual must provide it.

Applicants under the age of sixteen

7B.—(1) An applicant under the age of sixteen ("the child") must not be required to provide biometric information in accordance with regulation 7A except where the authorised person is satisfied that the biometric information will be taken in the presence of a person aged eighteen or over who is—

(a) the child's parent or guardian; or

(b) a person who for the time being takes responsibility for the child.

(2) The person mentioned in paragraph (1)(b) may not be—

(a) an authorised person or any officer of the Secretary of State;

(b) any other person acting on behalf of an authorised person as part of a process specified under regulation 7C(1)(a) or (c).

(3) An authorised person shall not require an applicant under the age of sixteen to provide biometric information unless the decision to do so has been confirmed by a person designated for the purpose by the Secretary of State.

(4) This regulation does not apply if the authorised person reasonably believes that the applicant whose biometric information is to be taken is aged sixteen or over.

Process by which an individual's biometric information may be obtained and recorded

7C.—(1) An authorised person who requires an individual to provide a record of the individual's fingerprints or a photograph of the individual's face under regulation 7A may do any one or more of the following—

(a) require the individual to make an appointment before a specified date, which the individual must attend, to enable a record of the individual's fingerprints or a photograph of the individual's face to be taken by an authorised person or by a person acting on behalf of an authorised person;

(b) specify the date, time and place for the appointment;

(c) require the individual to attend premises before a specified date to enable a record of the individual's fingerprints or a photograph of the individual's face to be taken by an authorised person or by a person acting on behalf of an authorised person; and

(d) specify any documents which the individual must bring to the appointment or premises, or action which the individual must take to confirm the individual's identity.

(2) An authorised person may require a record of fingerprints or photograph to be of a particular specification.

(3) Where an authorised person requires an individual to submit to any requirement in accordance with paragraph (1), the individual must submit to it.

Consequences of a failure to comply with a requirement of these Regulations

7D. Where an individual who is required to provide biometric information as part of an application for registration or naturalisation as a British citizen fails to comply with the process, or combination of processes, required by an authorised person in accordance with regulation 7C, the Secretary of State may treat the individual's application as invalid.

Use and retention of biometric information

7E.—(1) Biometric information provided in accordance with these Regulations may be retained only if the Secretary of State thinks that it is necessary to retain it for use in connection with—

(a) the exercise of a function by virtue of the Immigration Acts; or

(b) the exercise of a function in relation to nationality.

(2) Biometric information retained by virtue of paragraph (1) may also be used—

(a) in connection with the prevention, investigation or prosecution of an offence;

(b) for a purpose which appears to the Secretary of State to be required in order to protect national security;

(c) in connection with identifying persons who have died, or are suffering from illness or injury;

(d) for the purpose of ascertaining whether a person has acted unlawfully, or has obtained or sought anything to which the person is not legally entitled; and

(e) in connection with the exercise of a function concerning the entitlement of a person who is not a national of an EEA state or Switzerland to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972(**5**).

Destruction of biometric information

7F.—(1) The Secretary of State must take all reasonable steps to ensure that biometric information held by the Secretary of State by virtue of these Regulations, including any copies, is destroyed if the Secretary of State—

(a) no longer thinks that it is necessary to retain the information for use as mentioned in regulation 7E(1); or

(b) subject to the exception in paragraph (2), is satisfied that the person to whom the information relates is a British citizen, or a Commonwealth citizen who has a right of abode in the United Kingdom as a result of section 2(1)(b) of the Immigration Act 1971.

(2) The exception is that photographs of a person who is registered or naturalised as a British citizen may be retained until the person is issued with a United Kingdom passport describing the person as a British citizen.

(**5**) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51), and by section 3(3) of, and Part 1 of Schedule 1 to, the European Union (Amendment) Act 2008 (c. 7).