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STATUTORY INSTRUMENTS

2007 No. 3139

**THE BRITISH NATIONALITY (BRITISH OVERSEAS
TERRITORIES) REGULATIONS 2007**

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BRITISH NATIONALITY

The British Nationality (British Overseas Territories) Regulations 2007

<i>Made</i>	<i>26th October 2007</i>
<i>Laid before Parliament</i>	<i>2nd November 2007</i>
<i>Coming into force</i>	<i>3rd December 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 41(1) and (3) of the British Nationality Act 1981[1].

PART 1

General

Citation and commencement

1. These Regulations may be cited as the British Nationality (British Overseas Territories) Regulations 2007 and shall come into force on 3rd December 2007.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires -

"the Act" means the British Nationality Act 1981;

"applicant", in relation to an application made on behalf of a person who is not of full age or capacity, means that person; and

"High Commissioner" means, in relation to a country mentioned in Schedule 3 to the Act (countries whose citizens are commonwealth citizens)[2], the High Commissioner for Her Majesty's Government in the United Kingdom appointed to that country, and includes the acting High Commissioner.

(2) In the application of the provisions of regulation 6(3), where a function of the Secretary of State under the Act is exercised by the Governor of a British overseas territory by virtue of arrangements made under section 43(1) of the Act (exercise of functions of Secretary of State by Governors and others)[3], any

reference in those provisions to the Secretary of State shall be construed as a reference to the Governor.

PART 2

Registration and Naturalisation

Applications

3. Any application for registration as a British overseas territories citizen or for a certificate of naturalisation as a British overseas territories citizen shall -

- (a) be made to the appropriate authority specified in regulation 4;
- (b) satisfy the requirements of Part 1 of Schedule 1 and, if made on behalf of a person not of full age or capacity, Part 2 of that Schedule; and
- (c) satisfy any further requirements specified in relation to that application in Schedule 2.

Authority to whom application is to be made

4. The authority to whom an application is to be made is -

- (a) if the applicant is in Great Britain or Northern Ireland, the Secretary of State for the Home Department;
- (b) if the applicant is in any of the Islands, the Lieutenant-Governor;
- (c) if the applicant is in a British overseas territory, the Governor;
- (d) if the applicant is in a country mentioned in Schedule 3 to the Act, the High Commissioner or, if there is no High Commissioner, the Secretary of State for the Home Department;
- (e) if the applicant is elsewhere, any consular officer, any established officer in the Diplomatic Service of Her Majesty's Government in the United Kingdom or any person authorised by the Secretary of State for that purpose.

Persons not of full age or capacity

5. The following persons may make an application on behalf of someone who is not of full age or capacity -

- (a) the individual's father or mother;
- (b) any person who has assumed responsibility for the individual's welfare.

Citizenship oaths and pledges

6. (1) This regulation applies where, by virtue of section 42 of the Act (registration and naturalisation: citizenship ceremony, oath and pledge)[4], an applicant for registration or for a certificate of naturalisation is required to make a citizenship oath or pledge.

(2) The oath or pledge shall be administered in accordance with the requirements of Schedule 3.

(3) Where, following an application by an applicant who is required to make a citizenship oath or pledge, the Secretary of State decides that the registration should be effected or the certificate should be granted -

- (a) he shall cause notice in writing of the decision to be given to the applicant; and
- (b) the oath or pledge shall be made within three months of the giving of the notice or such longer time as the Secretary of State may allow.

(4) Any notice required by paragraph (3)(a) shall be given -

- (a) where the applicant's whereabouts are known, by causing the notice to be delivered to him personally or by sending it to him by post;
- (b) where the applicant's whereabouts are not known, by sending it by post in a letter addressed to him at his last known address.

Certificates of naturalization

7. A certificate of naturalisation shall include the following information relating to the person to whom the certificate is being granted -

- (a) full name;
- (b) date of birth; and
- (c) place and country of birth.

PART 3

Renunciation and Deprivation

Declarations of renunciation

8. Any declaration of renunciation of British overseas territories citizenship shall -

- (a) be made to the appropriate authority specified in regulation 9; and
- (b) satisfy the requirements of Schedule 4.

Authority to whom declaration of renunciation is to be made

9. The authority to whom a declaration of renunciation is to be made is -

- (a) if the declarant is in Great Britain or Northern Ireland, the Secretary of State for the Home Department;
- (b) if the declarant is in any of the Islands, the Lieutenant-Governor;
- (c) if the declarant is in a British overseas territory, the Governor;

- (d) if the declarant is in a country mentioned in Schedule 3 to the Act, the High Commissioner or, if there is no High Commissioner, the Secretary of State for the Home Department;
- (e) if the declarant is elsewhere, any consular officer, any established officer in the Diplomatic Service of Her Majesty's Government in the United Kingdom or any person authorised by the Secretary of State for that purpose.

PART 4

Supplemental

Evidence

10. A document may be certified to be a true copy of a document for the purpose of section 45(2) of the Act (evidence) by means of a statement in writing to that effect signed by a person authorised by the Secretary of State, the Lieutenant-Governor, the High Commissioner or the Governor for that purpose.

Manner of signifying parental consent to registration

11. Where a parent, in pursuance of section 17(5)(c) of the Act (acquisition by registration: minors)[5], consents to the registration of a person as a British overseas territories citizen under that provision, the consent shall be expressed in writing and signed by the parent.

Revocation

12. The following instruments are revoked -

- (a) The British Nationality (Dependent Territories) Regulations 1982[6];
- (b) The British Nationality (British Overseas Territories) (Amendment) Regulations 2003[7];
- (c) The British Nationality (British Overseas Territories) (Amendment) (No. 2) Regulations 2003[8]; and
- (d) Paragraph 4 of Part 2 of Schedule 13 to the Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005[9].

Liam Byrne
Minister of State

Home Office
26th October 2007

SCHEDULE 1

Regulation 3

General requirements for applications

PART 1

All applications

1. An application shall be made in writing and shall state the name, address and date and place of birth of the applicant.
2. An application shall contain a declaration that the particulars stated in the application are true.

PART 2

Applications made by persons not of full age or capacity

3. An application in respect of someone not of full age or capacity made by another person on his behalf shall -
 - (a) state that the application is made on behalf of a person who is not of full age or capacity;
 - (b) state the name and address of the person who is making the application;
 - (c) indicate the nature of the connection between the person making the application and the person on whose behalf the application is made; and
 - (d) where the person making the application has any responsibility, other than as a parent, for the person on whose behalf the application is made, the nature of that responsibility and the manner in which it was assumed.

SCHEDULE 2

Regulation 3

Particular requirements for applications

Application under section 15(3) of the Act

1. The application shall contain information showing -
 - (a) that the applicant's father or mother became a British overseas territories citizen, or became settled in a British overseas territory, after the applicant's birth; and

- (b) where the applicant is aged 10 or over, that he is of good character.

Application under section 15(4) of the Act

2. The application shall contain information showing -

- (a) that the applicant possesses the requisite qualifications in respect of residence; and
- (b) that he is of good character.

3. If the applicant was absent from the British overseas territory in which he was born for more than 90 days in any one of the first 10 years of his life and it is desired that the application should nevertheless be considered under section 15(7) of the Act (acquisition of citizenship by birth or adoption)[10], the application shall specify the special circumstances to be taken into consideration.

Application under section 17(2) of the Act

4. The application shall contain information showing -

- (a) that the applicant's father or mother ("the parent in question") was a British overseas territories citizen by descent at the time of the applicant's birth;
- (b) that the father or mother of the parent in question -
 - (i) was a British overseas territories citizen otherwise than by descent at the time of the birth of the parent in question; or
 - (ii) became a British overseas territories citizen otherwise than by descent at commencement; or
 - (iii) would have become a British overseas territories citizen otherwise than by descent at commencement but for his or her death; and
- (c) either -
 - (i) that the parent in question possesses the requisite qualifications in respect of residence; or
 - (ii) that the applicant was born stateless.

5. If the application is not made within 12 months after the applicant's birth and it is desired that the application should nevertheless be considered under section 17(4) of the Act (acquisition of citizenship by registration: minors), the application shall specify the special circumstances to be taken into consideration.

Application under section 17(5) of the Act

6. The application shall contain information showing -

- (a) that the applicant's father or mother was a British overseas territories citizen by descent at the time of the applicant's birth;

- (b) that the applicant and his father and mother possess the requisite qualifications in respect of residence (as required by section 17(5)(b) and (6) of the Act (acquisition by citizenship by registration: minors)[11]) and, if only one parent possesses the requisite qualifications, the reason for that fact;
- (c) that the consent of the applicant's father and mother (as required by section 17(5)(c) and (6) of the Act (acquisition of citizenship by registration: minors)) has been signified in accordance with regulation 11 and, if the consent of one parent only has been signified, the reason for that fact; and
- (d) where the applicant is aged 10 or over, that he is of good character.

Application under section 18(1) of the Act

7. The application shall contain information showing that the applicant -

- (a) possesses the requisite qualifications in respect of -
 - (i) residence or Crown service;
 - (ii) freedom from immigration restrictions;
 - (iii) compliance with the immigration laws;
 - (iv) good character; and
 - (v) knowledge of language;
- (b) has the requisite intention with respect to residence or occupation in the event of a certificate of naturalisation being granted to him; and
- (c) is of full capacity.

8. If the applicant does not possess the requisite qualifications in respect of residence, freedom from immigration restrictions, compliance with the immigration laws or knowledge of language and it is desired that the application should nevertheless be considered under paragraph 6 of Schedule 1 to the Act (naturalisation as a British overseas territories citizen under section 18(1)), the application shall specify the special circumstances to be taken into consideration.

9. If the applicant is not of full capacity and it is desired that the requirement of full capacity be waived in accordance with section 44A of the Act (waiver of requirement for full capacity)[12], the application shall specify why it would be in the applicant's best interests for the requirement to be waived in his case.

Application under section 18(2) of the Act

10. The application shall contain information showing that the applicant -

- (a) is married to, or is the civil partner of, a British overseas territories citizen;
- (b) possesses the requisite qualifications in respect of -
 - (i) residence;

- (ii) freedom from immigration restrictions;
 - (iii) compliance with the immigration laws;
 - (iv) good character; and
 - (v) knowledge of language; and
- (c) is of full capacity.

11. If the applicant does not possess the requisite qualifications in respect of residence, compliance with the immigration laws or knowledge of language and it is desired that the application should nevertheless be considered under paragraph 8 of Schedule 1 to the Act (naturalisation as a British overseas territories citizen under section 18(2))^[13], the application shall specify the special circumstances to be taken into consideration.

12. 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 8(d) of Schedule 1 to the Act (naturalisation as a British overseas territories citizen under section 18(2)) on the grounds of marriage to, or civil partnership with, a person who is serving in Crown service under the government of a British overseas territory or other designated service, the application shall specify the nature of the service and contain information showing that recruitment for that service took place in a British overseas territory.

13. If the applicant is not of full capacity and it is desired that the requirement of full capacity be waived in accordance with section 44A of the Act (waiver of requirement for full capacity), the application shall specify why it would be in the applicant's best interests for the requirement to be waived in his case.

Application under section 22(1) of the Act

14. The application shall contain information showing -

- (a) that the applicant has renounced citizenship of the United Kingdom and Colonies before commencement;
- (b) that at the time when he renounced it, the applicant was, or was about to become, a citizen of a country mentioned immediately before commencement in section 1(3) of the British Nationality Act 1948^[14];
- (c) that the applicant could not have remained or become such a citizen but for renouncing it or had reasonable cause to believe that he would be deprived of his citizenship of that country unless he renounced it;
- (d) that the applicant possessed the requisite qualifying connection with a British overseas territory immediately before commencement or was married before commencement to a person who possessed the requisite qualifying connection with a

- British overseas territory immediately before commencement or who would if living have possessed such a connection;
- (e) that the applicant has not previously been registered under section 22(1) of the Act (right to registration replacing right to resume citizenship of UK and Colonies)[15]; and
 - (f) where the applicant is aged 10 or over, that he is of good character.

Application under section 22(2) of the Act

15. The application shall contain information showing -

- (a) that the applicant has renounced citizenship of the United Kingdom and Colonies before commencement and his reason for doing so;
- (b) that the applicant possesses the requisite qualifying connection with a British overseas territory or has been married to, or has been the civil partner of, a person who has, or would if living have, such a connection;
- (c) where the applicant is aged 10 or over, that he is of good character; and
- (d) that the applicant is of full capacity.

16. If the applicant is not of full capacity and it is desired that the requirement of full capacity be waived in accordance with section 44A of the Act (waiver of requirement for full capacity), the application shall specify why it would be in the applicant's best interests for the requirement to be waived in his case.

Application under section 13(1) of the Act as applied by section 24 of that Act

17. The application shall contain information showing -

- (a) that the applicant has renounced British overseas territories citizenship;
- (b) that, at the time when he renounced it, the applicant had or was about to acquire some other citizenship or nationality;
- (c) that the renunciation of British overseas territories citizenship was necessary to enable him to retain or acquire that other citizenship or nationality;
- (d) that the applicant had not previously been registered under section 13(1) of the Act (resumption of citizenship) as applied by section 24 of that Act (renunciation and resumption of British overseas territories citizenship)[16];
- (e) where the applicant is aged 10 or over, that he is of good character; and
- (f) that the applicant is of full capacity.

18. If the applicant is not of full capacity and it is desired that the requirement of full capacity be waived in accordance with section 44A of the Act (waiver of requirement for full capacity), the application shall specify why it would be in the applicant's best interests for the requirement to be waived in his case.

Application under section 13(3) of the Act as applied by section 24 of that Act

19. The application shall contain information showing -

- (a) that the applicant has renounced British overseas territories citizenship and his reason for so doing;
- (b) where the applicant is aged 10 or over, that he is of good character; and
- (c) that the applicant is of full capacity.

20. If the applicant is not of full capacity and it is desired that the requirement of full capacity be waived in accordance with section 44A of the Act (waiver of requirement for full capacity), the application shall specify why it would be in the applicant's best interests for the requirement to be waived in his case.

Application under paragraph 3 of Schedule 2 to the Act

21. The application shall 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.

22. 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, the application shall specify the special circumstances to be taken into consideration.

Application under paragraph 4 of Schedule 2 to the Act

23. The application shall contain information showing -

- (a) that the applicant is and always has been stateless;
- (b) that the father or mother of the applicant was a British overseas territories citizen at the time of the applicant's birth; and
- (c) that the applicant seeks British overseas territories citizenship and possesses the requisite qualifications in respect of residence.

24. 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, the application shall specify the special circumstances to be taken into consideration.

Application under paragraph 5 of Schedule 2 to the Act

25. The application shall contain information showing -

- (a) that the applicant is and always has been stateless;
- (b) if he was not born at a place which is, at the date of the application, within the United Kingdom and British overseas territories -
 - (i) that the applicant's mother was a citizen of the United Kingdom and Colonies at the time of his birth; or
 - (ii) that he possesses the requisite qualifications in respect of parentage or residence and parentage; and
- (c) that the applicant seeks British overseas territories citizenship and that that citizenship is available to the applicant in accordance with paragraph 5(2) of Schedule 2 to the Act.

SCHEDULE 3

Regulation 6(2)

Administration of citizenship oath or pledge

1. Subject to paragraph 2, a citizenship oath or pledge shall be administered by one of the following persons -

- (a) in England and Wales or Northern Ireland, any justice of the peace, commissioner for oaths or notary public;
- (b) in Scotland, any sheriff principal, sheriff, justice of the peace or notary public;
- (c) in the Channel Islands, the Isle of Man or any British overseas territory -
 - (i) any judge of any court of civil or criminal jurisdiction;
 - (ii) any justice of the peace or magistrate; or
 - (iii) any person for the time being authorised, by the law of the place where the applicant, declarant or deponent is, to administer an oath for any judicial or other legal purpose;
- (d) in any country mentioned in Schedule 3 to the Act of which Her Majesty is Queen, or in any territory administered by the government of any such country -
 - (i) any person for the time being authorised, by the law of the place where the deponent is, to administer an oath for any judicial or other legal purpose;
 - (ii) any consular officer; or
 - (iii) any established officer of the Diplomatic Service of Her Majesty's Government in the United Kingdom;
- (e) elsewhere -
 - (i) any consular officer;

- (ii) any established officer of the Diplomatic Service of Her Majesty's Government in the United Kingdom; or
- (iii) any person authorised by the Secretary of State for that purpose.

2. If the deponent is serving in Her Majesty's naval, military or air forces, the oath or pledge may be administered by any officer holding a commission in any of those forces, whether the oath or pledge is made in the United Kingdom or elsewhere.

SCHEDULE 4

Regulation 8

Requirements for declaration of renunciation

1. A declaration shall be made in writing and shall state the name, address, date and place of birth of the declarant.
2. A declaration shall contain information showing that the declarant -
 - (a) is a British overseas territories citizen;
 - (b) is of full age or, if not, has been married or has been a civil partner;
 - (c) is of full capacity; and
 - (d) will, after the registration of the declaration, have or acquire some citizenship or nationality other than British overseas territories citizenship.
3. If the declarant is not of full capacity and it is desired that the requirement of full capacity be waived in accordance with section 44A of the Act (waiver of requirement for full capacity), the declaration shall specify why it would be in the applicant's best interests for the requirement to be waived in his case.
4. A declaration shall contain a declaration that the particulars stated are true.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments and revoke the British Nationality (Dependent Territories) Regulations 1982. Part 2 of, and Schedules 1 to 3 to, these Regulations make provision in respect of applications for registration and naturalisation as a British overseas territories citizen, the procedure for making a citizenship oath and pledge where required under section 42 of the British Nationality Act 1981 ("the Act") and the contents of a certificate of naturalisation as a British citizen. Part 3 of, and Schedule 4 to, these Regulations make provision in respect of declarations of renunciation of British

overseas territories citizenship. Part 4 of these Regulations makes supplemental provision. Key amendments require applicants aged ten or over to demonstrate good character when making an application under section 13(1) or (3) (as applied by section 24), 15(3) or (4), 17(5) or 22(1) or (2) of the Act. They also require applicants who are not of full capacity and who wish the full capacity requirement to be waived in their case in accordance with section 44A of the Act to provide reasons why it would be in their best interests for that requirement to be waived when making an application under section 13(1) or (3) (as applied by section 24), 18(1) or (2) or 22(2) of the Act and when making a declaration of renunciation of British overseas territories citizenship. The form of a certificate of naturalisation is no longer specified but the information which must be contained in such a certificate is specified and no longer includes the name which the holder had at birth if different from his current name.

Notes:

[1] 1981 c. 61. Section 41(1) of the 1981 Act has been amended by: sections 1 and 3 of, and paragraphs 3 and 4 of Schedule 1 to, the Nationality, Immigration and Asylum Act 2002 (c. 41); section 2 of the British Overseas Territories Act 2002 (c. 8); and S.I. 1986/948. Section 41(1) of the 1981 Act is also amended by section 50(4) of the Immigration, Asylum and Nationality Act 2006 (c. 13) but that amendment is not yet in force. Section 41(3) of the 1981 Act has been amended by: section 3 of, and paragraphs 3 and 6 of Schedule 1 to, the Nationality, Immigration and Asylum Act 2002; and sections 52 and 61 of, and Schedules 2 and 3 to, the Immigration, Asylum and Nationality Act 2006.

[2] Schedule 3 to the 1981 Act has been amended by section 1 of the Brunei and Maldives Act 1985 (c. 3); S.I. 1983/882; S.I. 1983/1699; S.I. 1989/1331; S.I. 1990/1502; S.I. 1994/1634; and S.I. 1998/3161.

[3] Section 43(1) of the 1981 Act has been amended by: sections 1, 2 and 7 of, and Schedule 2 to, the British Overseas Territories Act 2002; and S.I. 1986/948.

[4] Section 42 of the 1981 Act was substituted by section 3 of, and Schedule 1 to, the Nationality, Immigration and Asylum Act 2002.

[5] Section 17(5) of the 1981 Act has been amended by sections 1 and 2 of the British Overseas Territories Act 2002.

[6] S.I. 1982/987 which has been amended by: sections 1 and 2 of the British Overseas Territories Act 2002 (c. 8); S.I. 2003/539; S.I. 2003/3159; and paragraph 4 of Part 2 of Schedule 13 to S.I. 2005/2114.

[7] S.I. 2003/539.

[8] S.I. 2003/3159.

[9] S.I. 2005/2114.

[10] Section 15(7) of the 1981 Act has been amended by section 1 of the British Overseas Territories Act 2002.

[11] Section 17(5) and (6) of the 1981 Act has been amended by: sections 1 and 2 of the British Overseas Territories Act 2002; sections 9 and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002; and section 261 of, and paragraph 75 of Schedule 27 to, the Civil Partnership Act 2004 (c. 33).

[12] Section 44A of the 1981 Act was inserted by section 49 of the Immigration, Asylum and Nationality Act 2006.

[13] Paragraph 8 of Schedule 1 to the 1981 Act has been amended by: section 1 of the British Overseas Territories Act 2002; sections 2 and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002; and section 261 of, and paragraph 78 of Schedule 27 to, the Civil Partnership Act 2004.

[14] 1948 c. 56. Section 1 of the British Nationality Act 1948 was repealed by section 52(8) of, and Schedule 9 to, the 1981 Act.

[15] Section 22(1) of the 1981 Act has been amended by: sections 1 and 2 of the British Overseas Territories Act 2002; and sections 5 and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002.

[16] Section 24 of the 1981 Act has been amended by section 2 of the British Overseas Territories Act 2002.
