



28 May 2021

By email: public.enquiries@homeoffice.gov.uk

Kevin Foster MP
Parliamentary Under Secretary of State
Minister for Future Borders and Immigration
Home Office
2 Marsham Street
London
SW1P 4DF

Dear Minister

Re: The British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021

We write jointly concerning these regulations, currently in draft, which are intended to come into force on 1 July 2021; and in doing so draw on our collective expertise and experience. That expertise and experience includes that of the Project for the Registration of Children as British Citizens (PRCBC) in advising and representing especially vulnerable and/or marginalised children with rights to British citizenship; and of the3million whose wide membership consists of EU citizens in the UK.

We understand the effect of these regulations to be that a child born to a EU citizen on or after 1 July 2021, who is not born a British citizen will automatically acquire British citizenship if and when the parent becomes settled provided the parent either had applied for settled status under the EU Settlement Scheme or would have been eligible for settled status under the scheme immediately before 1 July 2021.

We welcome this step to securing the rights to British citizenship of children born in the UK to EU citizens. We would, nonetheless, be grateful for further information as to how your department will ensure that children to whom section 10A of the British Nationality Act 1981, as inserted by these regulations, are not effectively deprived of their British citizenship whether by a lack of awareness of their acquisition of citizenship or an inability to evidence that acquisition.

Having regard to the above, we would be grateful for your response to the following matters.

Concerning how the British citizenship acquired under section 10A of the British Nationality Act 1981 will be secured for the children to whom that section applies:

We have several questions arising from our experience and knowledge of the difficulties that face many children born in the UK in establishing their rights to British citizenship under the British Nationality Act 1981. Children, most especially young children, are generally dependent on adults (be they parents, carers, social workers or others) to ensure their nationality is confirmed and secured. Where this is not done, a child may grow up wholly unaware of the fact or its potential consequences.

Children, who are estranged from one or both parents, are at especial risk of being left unable to establish their nationality, particularly if there is delay in confirming it and where its acquisition derives from a parent's status. Currently, these concerns are all too frequently exacerbated by a failure or refusal of your department to confirm from its records a relevant parental relationship or the British citizenship or settled status of the parent at the relevant time – a practice that is not consistent with your department's obligations under section 55 of the Borders, Citizenship and Immigration Act 2009 and the 1989 UN Convention on the Rights of the Child. We are even aware of examples where your department has insisted a child produce the original of the parent's document which your department issued, in circumstances where the child has produced a copy and clearly explained why the original is not available to the child (including e.g. in circumstances where the child is estranged from the relevant parent due to that parent's abuse).

With the above in mind, we have the following questions:

1. What information will be made available to an EU citizen who becomes settled on or after 1 July 2021 regarding the effect of section 10A and its possible application to any child they may have who was born in the UK?
2. What records will the department maintain relating to the following matters?
 - a. The timing of applications for settled status (particularly of persons applying before 1 July 2021 but whose applications are granted on or after that date);
 - b. The eligibility for settled status, immediately before 1 July 2021, of persons granted settled status on or after that date; and
 - c. The reasons for a grant of settled status on or after 1 July 2021 (as these relate to the conditions under section 10A).
3. Will the department provide access to these records to the child, to whom section 10A applies; and/or what other steps will the department take to ensure that the child is able to confirm her, his or their British citizenship acquired under section 10A (whether during childhood or adulthood)?

4. Will the department provide access to these records to the parent (whether the EU citizen parent or otherwise), adoptive parent, local authority or other carer with parental responsibility for the child?

We would respectfully suggest that a minimum requirement to secure the rights of children to whom section 10A will apply would be to include within any written confirmation of a grant of settled status confirmation of the date on which that status is conferred, the date of the application to which it relates and/or confirmation that the person to whom it relates would have been eligible for that status immediately before 1 July 2021.

Concerning children's rights to British citizenship more generally

Having regard to the foregoing, we wish to take the opportunity to remind you of our continuing concerns regarding how many children born and growing up in this country are effectively deprived of their rights to British citizenship by reason of lack of awareness of these rights and administrative and other barriers to their exercise.

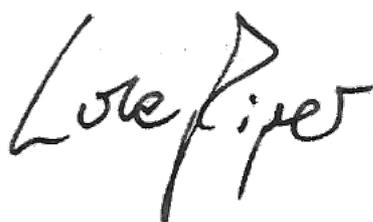
PRCBC and Amnesty International UK have written, on 3 February 2020 (jointly with others), to you and, on 5 September 2019, to your predecessor regarding these concerns, specifically in relation to the EU Settlement Scheme. We are grateful for your response of 7 May 2020 (Ref: MIN/0005654/20) but, with respect, it indicated no effective commitment at the department to take steps to ensure that children with rights to British citizenship are enabled to exercise these. Given the intention underlying the British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021, we would invite you and your officials to reflect again on the matters on which we wrote to you and your predecessor.

If we can be of further assistance in relation to these matters, we would of course be very pleased to meet with you in relation to them.

Yours faithfully



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Project for the Registration of Children as British Citizens (PRCBC)



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