

CITIZENSHIP (ARMED FORCES) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Citizenship (Armed Forces) Bill as brought from the House of Commons on 20th January 2014. They have been prepared by the Home Office, with the consent of Lord Trefgarne, the Peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
2. The Notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment none is given.

SUMMARY

3. A summary of the Bill is set out below. The Bill has 2 clauses.
4. The Bill amends the British Nationality Act 1981 (“the 1981 Act”), in order to ensure that foreign and commonwealth citizens in Her Majesty’s forces who wish to apply for naturalisation as a British Citizen under section 6(1) of the 1981 Act are not disadvantaged because of time served overseas.
5. In order to apply for naturalisation as a British citizen under section 6(1), a person must have been resident in the United Kingdom for the previous five years. Whilst the Secretary of State has the discretion to disregard time spent outside the United Kingdom during that period, an applicant must in all cases have been in the United Kingdom at the beginning of that period. This means that foreign and commonwealth citizens in the armed forces who are posted overseas may have to wait longer than those who remain in the United Kingdom before being able to naturalise as British citizens.
6. This Bill will give the Secretary of State the discretion to waive the requirement that an applicant for naturalisation should have been in the United Kingdom at the beginning of the five year residence period mentioned above. This will only apply to those who are, or have been, members of the armed forces. This will ensure that all foreign and commonwealth citizens who are serving, or have served, in the forces are

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able to apply for naturalisation on equal terms, regardless of whether they were posted in the UK or abroad.

BACKGROUND

7. This Bill implements a commitment the government made in the *Armed Forces Covenant 2011* that new legislation would be brought forward to enable Foreign and Commonwealth Service Personnel to be exempted from the requirement to be in the UK at the start of the residential period for naturalisation as a British citizen, if in service on that date¹.

TERRITORIAL EXTENT AND APPLICATION

8. Clause 2 sets out the territorial extent of the Bill.
9. This Bill extends to England and Wales, Scotland, Northern Ireland, the Channel Islands, the Isle of Man, and the British overseas territories.

THE BILL – COMMENTARY ON SECTIONS

Clause 1: Application for citizenship by member or former member of the armed forces

10. Schedule 1 to the 1981 Act sets out the requirements that must be met by applicants for naturalisation as a British citizen or British overseas territories citizens. *Subsections (1) to (3)* of clause 1 amend Schedule 1 to give the Secretary of State discretion to waive the requirement in paragraph 1(2) that applicants for naturalisation as a British citizen under section 6(1) of the 1981 Act must have been in the United Kingdom five years before making their application. This will only apply in cases where the applicant is, or has been, a member of the armed forces.
11. *Subsection (4)* of Clause 1 makes consequential amendments to the Borders, Citizenship and Immigration Act 2009 (“the 2009 Act”) to take account of the amendments to the 1981 Act made by subsections (1) to (3). It amends section 39 of the 2009 Act, which contains provisions which have not yet come into force which also amend Schedule 1 to the 1981 Act. The amendments mean that if those provisions are brought into force, they will be consistent with the revised text of Schedule 1.

¹ See p.62 of the *Armed Forces Covenant: Today and Tomorrow*.

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Clause 2: Citation, commencement and extent

12. Clause 2 is self explanatory.

COMMENCEMENT

13. Both clauses of this Bill will come into force two months after the Bill receives Royal Assent.

FINANCIAL EFFECTS

14. It is not anticipated that this Bill will lead to additional public expenditure.

PUBLIC SECTOR MANPOWER

15. No changes are expected to the staffing at the Home Office, which is the Department responsible for processing applications for naturalisation.

IMPACT ASSESSMENT

16. The Bill does not have any regulatory impact. It will not lead to costs or savings for business, public or civil society organisations, regulators or consumers. As a result no Impact Assessment has been prepared.

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