

ANNEX B: The Remedial Order

Draft Order laid before Parliament under paragraph 2(a) of Schedule 2 to the Human Rights Act 1998 (c. 42) for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

NATIONALITY

The British Nationality Act 1981 (Remedial) Order 2019

Made - - - - - ***

Coming into force - - - - - ***

The good character test in section 41A of the British Nationality Act 1981(a) has been declared(b) under section 4 of the Human Rights Act 1998(c) to be incompatible with a Convention right(d), in so far as it applies to applications for registration as a British citizen under sections 4C(e) and 4F to 4I(f) of the British Nationality Act 1981.

The Secretary of State considers that there are compelling reasons for proceeding by way of a remedial order(g) to make such amendments to the British Nationality Act 1981 as are necessary to remove that incompatibility.

In accordance with paragraph 2(a) of Schedule 2 to the Human Rights Act 1998, a draft of this instrument was laid before Parliament and was approved by resolution of each House of Parliament, a document containing a draft of this instrument having previously been laid before Parliament in accordance with paragraph 3(1) of that Schedule.

Accordingly, the Secretary of State makes the following Order, in exercise of the powers conferred by section 10(2) of, and paragraph 1(1)(a) and (d), (2) and (3) of Schedule 2 to, the Human Rights Act 1998.

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- (a) 1981 c. 61. Section 41A was inserted by section 47(1) of the Borders, Citizenship and Immigration Act 2009 (c. 11) and amended by section 73(6) of, and paragraph 70(1) and (3) of Schedule 9 to, the Immigration Act 2014 (c. 22).
- (b) By the Supreme Court in the case of *Johnson v Secretary of State for the Home Department* [2016] UKSC 56, in relation to sections 4F to 4I of the British Nationality Act 1981; and by way of a consent order in the case of *R (on the application of David Fenton Bangs) v Secretary of State for the Home Department* (claim number CO/1793/2017), in relation to section 4C of that Act.
- (c) 1998 c. 42.
- (d) Section 1(1) of the Human Rights Act 1998 defines “the Convention rights” and section 21(1) of that Act defines “the Convention”.
- (e) Section 4C was inserted by section 13(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) and amended by section 45 of the Borders, Citizenship and Immigration Act 2009.
- (f) Sections 4F to 4I were inserted by section 65 of the Immigration Act 2014.
- (g) Section 21(1) of the Human Rights Act 1998 defines “remedial order”.