EXPLANATORY MEMORANDUM TO

THE BRITISH NATIONALITY (PROOF OF PATERNITY) (AMENDMENT) REGULATIONS 2015

2015 No. 1615

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the British Nationality (Proof of Paternity) Regulations 2006 so that a birth certificate issued within 12 months of the birth is no longer sufficient in itself to establish paternity. Instead a birth certificate will be one of the documents that can be used to satisfy the Home Secretary that a person is a child's natural father.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Section 50(9) of the British Nationality Act 1981 defines who is a child's parent for the purposes of that Act.

4.2 Section 50(9B) provides for the Home Secretary to make regulations to prescribe the evidence that will be accepted as proof of paternity.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

5.2 It additionally applies to the Islands and all of the British overseas territories (the legislatures of which have not been consulted since they have no competence in matters relating to nationality and citizenship).

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The definition of a "father" for nationality purposes within the British Nationality Act 1981 was amended on 1 July 2006. The intention of that change was to allow a child to obtain British citizenship through his natural father if his

parents were not married.

7.2 One of the ways that a man can be recognised as a child's father is if he is able to prove paternity. The British Nationality (Proof of Paternity) Regulations 2006 specify that paternity can either be established by a man being named on a birth certificate issued within 12 months of the child's birth, or providing other evidence that satisfies the Home Secretary.

7.3 The current wording of the Regulations means that a man must be recognised as a child's father if named on a birth certificate issued within 12 months of the birth, even where there are doubts that he is the child's natural father . This amendment to the Regulations will mean that the birth certificate will become one of the documents that are taken into consideration to establish paternity, but can be discounted if there is other information, such as DNA evidence or evidence pertaining to the man's whereabouts at the time of the child's conception, to suggest that another man is in fact the child's natural father.

- Consolidation

7.4 There are no plans to consolidate the British Nationality Act 1981.

8. Consultation outcome

8.1 This change has not been the subject of consultation.

9. Guidance

9.1 UKVI guidance will be amended to take account of this change. The change itself will be publicised on the Gov UK website.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.
10.2 The impact on the public sector is nil.
10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This change is not subject to review.

13. Contact

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