

STATES OF JERSEY



BRITISH NATIONALITY ACT (H.M. ARMED FORCES EXEMPTION) BILL: EXTENSION TO JERSEY

Lodged au Greffe on 25th June 2013
by the Chief Minister

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to signify, pursuant to Article 31(1)(a) of the States of Jersey Law 2005, whether they agree that the provisions of the British Nationality Act 1981 (H.M. Armed Forces Exemption) Bill of the United Kingdom Parliament should, when the Act comes into force, extend to Jersey as summarised in the report of the Chief Minister dated 12th June 2013.

CHIEF MINISTER

REPORT

Executive Summary

The purpose of this Proposition is to request the States to signify their view regarding extension to Jersey of the British Nationality Act 1981 (H.M. Armed Forces Exemption) Bill.

The intention of the Bill is to ensure compliance with the Armed Forces Covenant, so that British armed forces are not disadvantaged by military service overseas.

The Bill would amend the British Nationality Act 1981, which already extends to Jersey and to the other Crown Dependencies, as well as the United Kingdom. It is therefore proposed that the provisions of the Bill should extend to Jersey. In particular this would enable the Secretary of State to delegate to His Excellency the Lieutenant Governor the ability, in appropriate circumstances, to exercise in Jersey the same discretion for the purposes of naturalisation as may be exercised by the Secretary of State in the United Kingdom.

Background

The British Nationality Act 1981 includes a requirement that anyone who wishes to be naturalised as a British Citizen must be in the UK on the first day of the 5 year residential qualifying period for naturalisation. Currently anyone serving overseas in 'Crown Service' can apply for naturalisation without meeting the residence requirements. This would cover foreign personnel in the Forces. However, they must be overseas at the time they make their application and must still be in the forces. This therefore does not cover former foreign soldiers who have remained in the UK or those stationed in the UK.

The amendment proposed broadens this existing exemption so it covers those who have since left the forces and those who are in the UK.

The amendment responds to calls from the service welfare organisations (such as the Royal British Legion, Army Families' Federation and Veterans Aid) to remedy this issue.

The provision will apply retrospectively to those currently serving who have already completed part of their 5 year residency requirement.

Advantages

The British Nationality Act 1981 includes a provision for the Secretary of State, in the case of certain of his functions under the Act, relating for example to naturalisation as British citizens, to arrange for those functions to be exercised on his or her behalf by His Excellency the Lieutenant-Governor of Jersey.

The amendment will enable the naturalisation requirements to be applied in the same way to members or former of the armed forces in Jersey as in the United Kingdom and enable His Excellency if authorised to do so, in appropriate circumstances, to exercise the same discretion for the purposes of naturalisation in Jersey as exercised by the

Secretary of State, for example with regard to former H.M. armed forces personnel who were overseas at the start of the 5 year residency period and may be resident in Jersey.

The measure will benefit a small group of individuals and in certain cases will make a significant difference to them – e.g. it could result in them being able to apply for citizenship some months earlier than would otherwise have been the case.

Proposal

Article 31(1) of the States of Jersey Law 2005 states that –

“Duty to refer certain matters to the States

(1) *Where it is proposed –*

(a) *that any provision of a draft Act of the Parliament of the United Kingdom should apply directly to Jersey; ...*

the Chief Minister shall lodge the proposal in order that the States may signify their views on it.”

Accordingly, the States are being asked to signify their views on extension of the Bill to Jersey.

Manpower and resource implications

There will be no additional manpower, revenue or capital requirements arising for Jersey.

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*Draft Bill***1 Application for citizenship by member or former member of armed forces [j01]**

- (1) Schedule 1 to the British Nationality Act 1981 (requirements for naturalisation as a British citizen under section 6(1) of that Act) is amended in accordance with subsections (2) and (3).
- (2) Paragraph 2 becomes sub-paragraph (1) of that paragraph.
- (3) After that sub-paragraph insert—
 - “(2) Sub-paragraph (3) applies in a case where, on the date of the application, the applicant is or has been a member of the armed forces.
 - (3) If in the special circumstances of the particular case the Secretary of State thinks fit, he may for the purposes of paragraph 1 treat the applicant as fulfilling the requirement specified in paragraph 1(2)(a) although the applicant was not in the United Kingdom at the beginning of the period there mentioned.”
- (4) In section 39 of the Borders, Citizenship and Immigration Act 2009 (which contains further amendments of paragraph 2 of Schedule 1 to the British Nationality Act 1981)—
 - (a) in subsection (4) for the words from the beginning to “paragraph” substitute “In sub-paragraph (1) of paragraph 2 of that Schedule”;
 - (b) in subsection (9) for the words “After that sub-paragraph insert” substitute “For sub-paragraphs (2) and (3) of paragraph 2 substitute”.

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*Draft Bill***1 Citation, commencement and extent [j02]**

- (1) This Act may be cited as the Citizenship (Armed Forces) Act 2013.
- (2) This Act comes into force at the end of the period of two months beginning with the day on which it is passed.
- (3) This Act extends to—
 - (a) England and Wales,
 - (b) Scotland,
 - (c) Northern Ireland,
 - (d) the Channel Islands,
 - (e) the Isle of Man, and
 - (f) the British overseas territories.