

**THE LEGISLATIVE REFORM (OVERSEAS REGISTRATION OF BIRTHS AND DEATHS)
ORDER 2014**

EXPLANATORY DOCUMENT BY THE FOREIGN AND COMMONWEALTH OFFICE

SECTION 1: INTRODUCTION

1. This Explanatory Document has been prepared by the Foreign and Commonwealth Office (“the FCO”) in accordance with section 14 of the Legislative and Regulatory Reform Act 2006 (“the 2006 Act”) together with the draft of the Legislative Reform (Overseas Registration of Births and Deaths) Order 2014 (“the Order”) which we propose to make under sections 1 and 2 of the 2006 Act. The purpose of the Order is to amend section 41 of the British Nationality Act 1981 (“the BNA”) to enable regulations to be made relating to the registration of births and deaths of persons who were born or who died in a country or territory outside the United Kingdom.
2. The Government is satisfied that Ministerial duties have been met under the relevant sections of the 2006 Act. This includes that the Order serves a purpose under sections 1(2) and 2(2) of the 2006 Act, that the pre-conditions under section 3 of the 2006 Act have been met, and that the appropriate consultation has been carried out in accordance with section 13 of the 2006 Act.
3. This Explanatory Document has been prepared by the FCO in order to assist the reader of the Order and to help inform debate on it. It does not form part of the Order and has not been endorsed by Parliament.

SECTION 2: BACKGROUND TO THE ORDER

4. Currently, there are various procedures for registering a birth or death of a British National which takes place overseas. In addition to local registration, most births and deaths can be registered with the British Embassy or High Commission in the country where the event took place. The FCO does this in 130 countries. Alternatively, next of kin resident in the UK or in another country may apply directly to the FCO in London or to their nearest British Embassy or High Commission for such consular registration, who then forward the application to the Embassy or High Commission in the country where the event took place. Additionally, the FCO in London registers events that take place in 25 countries or territories where the UK either has no diplomatic representation or where there are no Consular Registration Officers (examples include East Timor, Liberia, Somalia, Taiwan).
5. Applications for birth or death registrations overseas cannot yet be made on-line and currently services provided overseas have to be paid for in the local currency.
6. Centralisation of this service in the UK would allow the FCO to provide a common on-line application procedure and credit card payment facility which the FCO considers would be more efficient and convenient for customers.

Existing legal provisions

7. This registration service is currently governed by section 41(1)(g) to (i) of the BNA and the Registration of Overseas Births and Deaths Regulations 1982 (S.I. 1982/1123) (“the 1982 Regulations”).
8. Regulation 5 of the 1982 Regulations provides that births of British Nationals which occur outside the United Kingdom may be registered in accordance with the 1982 Regulations. In order for a birth to be registered, the registration officer must be satisfied as to the facts by the production of a local birth certificate and evidence of the child’s nationality. Regulation 7 of the 1982 Regulations makes provision about entering such a birth in the register.
9. Regulation 8 of the 1982 Regulations provides that deaths of British Nationals which occur outside the United Kingdom may be registered in accordance with the 1982 Regulations. In order for a death to be registered, the registration officer must be satisfied as to the facts by the production of a local death certificate. Regulation 10 of the 1982 Regulations makes provision about entering such a death in the register.
10. In both cases, a “registration officer” is defined in regulation 2 of the 1982 Regulations as:
 - any consular officer or other officer in the service of Her Majesty’s government in the United Kingdom entrusted with the registration of births and deaths in a foreign country; or
 - in any country mentioned in Schedule 3 to the British Nationality Act 1982, the High Commissioner for Her Majesty’s government in the United Kingdom or members of his official staff; or

- in or for any country in which Her Majesty's government has for the time being no diplomatic or consular representative:
 - i. any person serving in the diplomatic, consular or other foreign service of any country which, by arrangement with Her Majesty's government in the United Kingdom, has undertaken to represent that government's interests in that country; or
 - ii. any person authorised by the Secretary of State to be in charge of any registers of births or deaths kept at the Foreign and Commonwealth Office; or
 - iii. any other person authorised by the Secretary of State to register births and deaths occurring in a country overseas in any register kept for that country.

11. For the most part, the registration must occur in the country in which the birth or death occurred (the most common exception being where the birth or death occurs in a country in which there is no consular or diplomatic representation). This stems from section 41 of the BNA and the enabling powers contained therein which provide that regulations may be made (emphasis added):

- g. for the births and deaths of persons of any class or description born or dying in a country mentioned in Schedule 3 to be registered there by the High Commission for Her Majesty's government in the United Kingdom or by members of his official staff;
- h. for the births and deaths of persons of any class or description born or dying in a foreign country to be registered there by consular officers or other officers in the service of Her Majesty's government in the United Kingdom;
- i. for enabling the births and deaths of British Citizens, British Overseas Territories Citizens, British Overseas Citizens, British Nationals (Overseas), British Subjects and British Protected Persons born or dying in any country in which Her Majesty's government in the United Kingdom has for the time being no diplomatic or consular representatives to be registered:
 - i. by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with Her Majesty's government in the United Kingdom, has undertaken to represent that government's interest in that country; or
 - ii. by a person authorised in that behalf by the Secretary of State;

12. Section 41 of the BNA therefore restricts the ability to centralise all birth and death registrations because of the general requirement for births and deaths to be registered in the country in which the event took place.

SECTION 3: THE ORDER

Power to make the Order: sections 1 and 2 of the 2006 Act

13. This Order is made under sections 1 and 2 of the 2006 Act.

14. Under section 1 of the 2006 Act, the Order will reduce a burden within the meaning of section 1(3)(b) and (c), namely an administrative inconvenience and an obstacle to efficiency.

15. The obstacles to efficiency and the administrative inconvenience which we consider will be reduced are as follows:

- British Nationals who apply to the FCO for a consular birth or death registration will no longer have their application sent overseas to be dealt with;
- British Nationals residing overseas will no longer have to seek out their nearest British Embassy or High Commission, rather everything will be sent to one central place;
- payment could be made online by credit or debit card;
- FCO consular staff overseas will not be required to undertake complex and important nationality decisions which is not their area of expertise; such decisions will be taken by specially trained staff, thereby reducing the risk of mistakes being made; and
- rather than a variation between the service provided depending on the country, there will be a uniform and standardised service provided centrally.

16. Under section 2(2) of the 2006 Act, we are seeking to ensure that a regulatory function (as defined in section 32(2) of the 2006 Act) is exercised so as to comply with the principles in section 2(3) of the 2006 Act, namely that regulatory activities should be carried out in a way which is consistent. The regulatory function in question is the function under the BNA and its accompanying regulations which imposes requirements and conditions in relation to consular registration of births and deaths overseas.

Pre-conditions: section 3(2) of the 2006 Act

17. We are satisfied that the pre-conditions in section 3(2) of the Act are satisfied for the following reasons:

- **Non Legislative Solutions: section 3(2)(a)**

18. Statutory provisions (the BNA and the 1982 Regulations) set out the way in which overseas births and deaths are registered. The 1982 Regulations can only be amended in line with the

enabling powers in section 41(1)(g) to (i) of the BNA. At present this means that overseas births and deaths must be registered “there” (in the country overseas) under section 41(1)(g) and (h) if there is diplomatic or consular representation in that country. Only if there is no diplomatic or consular representation in a particular country can a birth or death be registered either in a third country (section 41(1)(i)) or by another person authorised by the Secretary of State (section 41(1)(ii)).

19. It is not possible to centralise the registration of births and deaths in countries where there is diplomatic or consular representation without amending the BNA. Amending the BNA will then enable the 1982 Regulations to be amended.

20. Therefore we consider that there is no non-legislative solution which would achieve the aim to centralise the registration of overseas births and deaths.

- **Proportionality: section 3(2)(b)**

21. The amendment we propose to make to the BNA is to remove the obligation for the registration of overseas births and deaths to take place in the country (“there”) where the birth or death took place. This would simplify the current provisions in the BNA by enabling regulations to be made for the registration of overseas births and deaths, without requiring registration in any particular location. We consider this to be the most proportionate way to achieve the policy objective to centralise the registration of overseas births and deaths.

- **Fair Balance: section 3(2)(c)**

22. The balance that is to be struck is between those people who will welcome the new centralised system and those people who will not. We consider that the new centralised system will provide a consistency across the registration system which will benefit all users. Moving to an online system is fully in line with the Government’s Digital by Default strategy, and we consider that the change to an online system will benefit the majority of people, particularly those who do not live within easy travelling distance of a British Embassy or High Commission. We anticipate that there will be a small percentage of customers who, because of their location overseas, may not have access to the internet. We will ensure that procedures are in place to handle these exceptional cases.

23. The amendment proposed is minor, with no increased funding consequences or burdens on Government. There are no additional costs related to the LRO process. Any costs in setting up a new centralised unit will be borne by the FCO using internal resources. There may be an additional increase in customer costs to cover postal/courier fees, but in some cases these will be offset as customers will no longer need to visit a consulate to make their application in person. Centralisation in the UK would allow the FCO to investigate adjusting the cost of the

service in future years, with the aim of reducing the cost to customers. It is thus proportionate to the problem to which it is addressed.

- **Necessary Protection: section 3(2)(d)**

24. We do not consider that we are removing any necessary protection since births and deaths will still be registered under the centralised system. Additionally, a consular birth or death registration is an entirely optional service, there being no requirement in law to obtain one.

- **Rights and Freedoms: section 3(2)(e)**

25. We do not consider that we are preventing any person from continuing to exercise any rights or freedoms that the person might reasonably expect to be able to continue to exercise, since births and deaths will still be registered under the centralised system.

- **Constitutional Significance: section 3(2)(f)**

26. We do not consider that these proposals have a constitutional significance as they are essentially administrative in nature.

Effect of the provisions and the removal of burdens on consular customers and staff

27. Birth and death registration overseas is a labour intensive process. Designated staff must make complicated nationality determinations, and make entries in manuscript in ledgers. Certified copies for customers are either handwritten or typed. Copies of all registrations are sent annually to the General Register Office in the UK. This administrative work detracts from FCO consular staff time whose primary function is to assist British Nationals in distress. A centralised, single-purpose unit in the UK would mean a more convenient and efficient system to provide an important service for British Nationals.

28. In order to determine whether to process a consular birth application, staff need to establish beyond doubt, by assessing the documentary evidence provided with the application, that the applicant does qualify for British nationality. This is a complex area, and only trained and qualified staff can make this decision. With the centralisation of the overseas passport issuing service from the consular network around the globe to the UK, FCO staff are losing experience in determining whether someone qualifies for British nationality, and there is an increasing risk that an incorrect decision may be made. An incorrect nationality determination could subsequently lead to a British passport being issued in error. Withdrawing a wrongly issued passport can be a very distressing experience.

29. A central unit with suitably trained staff, handling all applications from British Nationals overseas, would reduce this risk to customers. It would also ensure that a consistent service is provided in regards to: determining British nationality through a well-trained, properly managed and stable central unit; producing high-quality registration certificates, both for record purposes and for British Nationals; ensuring that annual statutory returns are sent to the GRO (General Register Office) England and Wales in time; maintaining a central record of consular birth and death registrations by secure storage in a single location.
30. A smaller, central unit with specialised staff in the UK, handling all applications from British Nationals overseas and in the UK, would take over from the current service provided by FCO overseas Posts. This would provide an efficient and coherent global service for British Nationals.
31. A centralised computer system would also make it simpler for searches to be made for overseas births and deaths. This search facility would provide a more convenient and efficient way for staff to conduct searches when requested, e.g. by families or solicitors.

Whom the proposals will affect and how

32. British Nationals resident in the UK who apply to the FCO for a consular birth or death registration. The FCO currently then sends the application to the relevant overseas Post (we consider this to be an obstacle to efficiency).
33. British Nationals residing overseas who wish to make a consular birth or death registration and visit the nearest British Embassy or High Commission (we consider this to be an obstacle to efficiency).
34. FCO consular staff overseas who administer the registration service including making nationality determinations (we consider this to be an administrative inconvenience and an obstacle to efficiency).

Related legal issues

- European Convention on Human Rights
35. We consider that the provisions of the Legislative Reform (Overseas Registration of Births and Deaths) Order 2014 are compatible with the Convention rights.
- Issues arising from membership of the European Union
36. We do not consider that there are any issues affecting this Order arising from the United Kingdom's membership of the European Union.

- **Parliamentary procedure**

37. The FCO recommends that the Order be subject to affirmative resolution procedure. The proposed changes are relatively minor, and the details in the 1982 Regulations themselves are subject to negative resolution procedure, however the changes cannot be said to be purely technical. Therefore the FCO considers that the affirmative resolution procedure provides the appropriate level of Parliamentary scrutiny.

SECTION 4: CONSULTATION

38. We commenced our 12 week consultation on 19 July 2013 (consultation document at Annex A). We consulted seven Government Departments who have an interest in our plans (UK Immigration and Visas; General Register Office for England and Wales; National Records of Scotland; General Register Office for Northern Ireland; Ministry of Justice; Home Office; Ministry of Defence). We published our consultation on www.gov.uk, and sent weekly tweets from the FCO's Travel Advice twitter account (with over 47,000 followers) to promote our consultation. We also contacted 18 expatriate organisations in the countries with the most demand for consular birth and death certificates. A number of these agreed to publish information about the consultation to their members, including on their websites or through their newsletters (Expat Forum; St. George's Society; British Community Committee, France; British Chamber of Commerce, Japan; Age Concern, Costa Blanca, Spain; British Residents Association of Switzerland; Pattaya City Expats Club, Thailand). In addition, our Embassy in Dubai gave a short radio interview on the consultation, and a short article was published in a local expat newspaper in the UAE.
39. On 11 October 2013, after the 12 week consultation period, we had received seven representations to the consultation from individual members of the public. Three of these included a completed online questionnaire which the FCO posted on the gov.uk website as part of its consultation document (summary of responses at Annex B).
40. Having held a detailed consultation and taken into account all views, we have decided to proceed with our option to centralise the FCO's consular birth and death registration service. Full consideration has been given to the results of the consultation and views on the Impact Assessment. The one change which has been made as a result of the consultation is to propose that the LRO be subject to the affirmative resolution procedure rather than the negative resolution procedure. The reason for this is that although the proposed changes are minor, they are not purely technical. We therefore consider the affirmative resolution procedure provides the appropriate level of Parliamentary scrutiny.

ANNEXES

Annex A: Consultation Document

Annex B: Summary of responses to the consultation



Foreign &
Commonwealth
Office
ANNEX A

Consultation on a proposal to use a Legislative Reform Order to make changes to the British Nationality Act 1981.

July 2013

www.gov.uk/government/organisations/foreign-commonwealth-office

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Summary of Proposals

A consultation paper issued by the Foreign and Commonwealth Office on behalf of the Secretary of State for Foreign Affairs

Scope of the consultation

Topic of this consultation	This consultation sets out proposals to amend section 41(1)(g) to (i) of the British Nationality Act (BNA) 1981 (Annex E).	Paragraph 1.1.
Scope of this consultation	<p>The purpose of the consultation is to set out the full proposals and seek your views on amendments to the BNA. The outcome of the consultation will assist in formulating the final proposal that we will then put before Parliament.</p> <p>We intend that the proposed changes to legislation are made by a Legislative Reform Order (LRO) made under the Legislative and Regulatory Reform Act 2006.</p> <p>In this public consultation, in addition to the policy proposals we are also seeking views on:</p> <ul style="list-style-type: none"> - If you believe that a LRO is an appropriate mechanism for making these changes. - If you agree with our proposed Parliamentary Scrutiny procedure <p>Subject to the outcome of the consultation, we propose that changes to the BNA through the LRO will come into force in time for regulations to be amended and the new birth and death registration system to come into effect from April 2014.</p>	Paragraphs 1.2, 1.3, 1.4, 1.8.
Geographical scope	The FCO registers births and deaths for British Nationals overseas.	Paragraphs 1.5, 1.6, 1.7.
Impact assessment	An Impact Assessment has been prepared for these proposals and accompanies this consultation document.	Annex A.

Basic information

To	This consultation is open to everyone, but will be of particular interest to British Nationals residing overseas.	Paragraph 2.9.
Body/bodies responsible for the consultation	This consultation is being carried out by the Consular Directorate of the Foreign and Commonwealth Office.	Paragraph 2.16.
Duration	<p>Consultation starts: 19 July 2013</p> <p>Consultation closes: 11 October 2013</p>	Paragraph 2.16.

<p>Enquiries</p>	<p>During the consultation, if you have any enquiries, or wish to receive hard copies of the consultation documents, please contact:</p> <p>Consultation Coordinator Overseas Residents Services Unit Consular Directorate Room WH547 Foreign and Commonwealth Office King Charles Street London SW1A 2AH</p> <p>Telephone: 020 7008 0224</p> <p>Email: bmdenquiries@fco.gov.uk</p>	<p>Paragraph 2.16. Annex C.</p>
<p>How to respond</p>	<p>Any comments on the proposals in this consultation document should be sent by 11 October 2013 to:</p> <p>bmdenquiries@fco.gov.uk (please title your email “public consultation”.)</p> <p>You may alternatively send your comments by post to:</p> <p>Consultation Coordinator Overseas Residents Services Unit Consular Directorate Room WH547 Foreign and Commonwealth Office King Charles Street London SW1A 2AH</p>	<p>Paragraph 2.16. Annex C.</p>
<p>After the consultation</p>	<p>When this consultation ends, we will place an electronic copy of the responses, plus a summary, on our website at www.gov.uk/fco. The summary will include a list of names and organisations that responded, but not individual contact details.</p> <p>If you do not want your response – including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, we cannot promise that we will always be able to keep those details confidential.</p>	<p>Annex C.</p>

Compliance with the Code of Practice on Consultation	This consultation is being conducted in accordance with the requirements of the Legislative and Regulatory Reform Act 2006 and the terms of the Government's Code of Practice on Written Consultations.	Annex D
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Chapter 1: Introduction

Purpose of the consultation

1.1 This consultation paper sets out in detail the Government's proposal to amend the British Nationality Act (BNA) 1981; specifically those parts that deal with registration of births and deaths overseas. These changes are limited to section 41(1)(g) to (i) of the Act (Annex F).

Why changes are needed

1.2 The FCO plans to discontinue consular registrations of births and deaths overseas by individual British Consulates, and establish a single specialist unit in the UK to register these births and deaths centrally.

1.3 Section 41 of the BNA provides for regulations to be made enabling births and deaths overseas to be registered. The relevant regulations are the Registration of Overseas Births and Deaths Regulations 1982 (1982 Regulations – S.I. 1982/1123 as amended – Annex G).

1.4 Section 41(1) (g) to (i) of the BNA limits the regulation-making power in such a way that registration must be done overseas (whether by the High Commission or the Consular Offices in the country, or in another specified country). Amending these provisions would allow for subsequent amendments to be made to the 1982 Regulations. Once both the BNA and the 1982 Regulations have been amended, the FCO would be able to establish a central consular birth and death registration unit in the UK, responsible for registering all consular births and deaths for British Nationals overseas.

Who the proposals will affect and how

1.5 British Nationals resident in the UK who apply to the FCO for a consular birth or death registration. The FCO currently then sends the application to the relevant overseas Post (we consider this to be an obstacle to efficiency).

1.6 British Nationals residing overseas who wish to make a consular birth or death registration with the nearest British Embassy or High Commission (we consider this to be an obstacle to efficiency).

1.7 FCO consular staff overseas (we consider this to be an administrative inconvenience and an obstacle to efficiency).

How these proposals will be taken forward

1.8 We propose to amend the BNA by means of a Legislative Reform Order (LRO) under sections 1 and 2 of the Legislative and Regulatory Reform Act 2006 (LRRRA). This consultation is being conducted in accordance with section 13 of the LRRRA. Views are invited on all aspects of the consultation paper, and a number of specific questions are set out in the Response Form at Annex B.

Chapter 2: Legislative Reform Order-making Powers

What can be delivered by a Legislative Reform Order?

Section 1

2.1 Under section 1 of the LRRRA a Minister can make a LRO for the purpose of ‘removing or reducing any burden, or overall burdens, resulting directly or indirectly for any person from any legislation’.

2.2 Section 1(3) of the LRRRA defines a ‘burden’ as:

- a financial cost;
- an administrative inconvenience;
- an obstacle to efficiency, productivity or profitability; or
- a sanction, criminal or otherwise, which affects the carrying on of any lawful activity.

Section 2

2.3 Under section 2 of the LRRRA a Minister can make a LRO for the purpose of securing that regulatory activities are exercised in a way that is transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed.

2.4 ‘Regulatory function’ is defined in section 32 as:

- a function under any enactment of imposing requirements, restrictions or conditions, or setting standards or giving guidance, in relation to any activity; or
- a function which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which under or by virtue of any enactment relate to any activity.

Preconditions

2.6 Each proposal for a LRO must satisfy the preconditions set out in section 3 of the LRRRA. The questions in the rest of this document are designed to elicit the information that the Minister will need in order to satisfy the Parliamentary Scrutiny Committees that, among other things, the proposal satisfies these preconditions. For this reason, we would particularly welcome your views on whether and how each aspect of the proposed changes in this consultation document meets the following preconditions:

- (i) **Non-Legislative Solutions** – A LRO may not be made if there are non-legislative solutions which will satisfactorily remedy the difficulty which the LRO is intended to address. An example of a non-legislative solution might be issuing guidance about a particular legislative regime.
- (ii) **Proportionality** – The effect of a provision made by a LRO must be proportionate to its policy objective. A policy objective might be achieved in a number of different ways, one of which may be more onerous than others and may be considered to be a disproportionate means of securing the desired outcome. Before making a LRO

the Minister must consider that this is not the case and that there is an appropriate relationship between the policy aim and the means chosen to achieve it.

- (iii) **Fair Balance** – Before making a LRO, the Minister must be of the opinion that a fair balance is being struck between the public interest and the interests of any person adversely affected by the LRO. It is possible to make a LRO which will have an adverse effect on the interests of one or more persons only if the Minister is satisfied that there will be beneficial effects which are in the public interest.
- (iv) **Necessary protection** – A Minister may not make a LRO if he considers that the proposals would remove any necessary protection. The notion of necessary protection can extend to economic protection, health and safety protection, and the protection of civil liberties, the environment and national heritage.
- (v) **Rights and freedoms** – a LRO cannot be made unless the Minister is satisfied that it will not prevent any person from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise. This condition recognises that there are certain rights that it would not be fair to take away from people using a LRO.
- (vi) **Constitutional Significance** – A Minister may not make a LRO if he considers that the provision made by the LRO is of constitutional significance.

2.7 It should be noted that even where the preconditions of section 3 of the LRRRA are met, a LRO cannot:

- Deliver 'highly controversial' proposals;
- Remove burdens which fall solely on Ministers or Government departments, except where the burden affects the Minister or Government departments in the exercise of regulatory functions;
- Confer or transfer any function of legislating on anyone other than a Minister; persons or bodies that have statutory functions conferred on or transferred to them by an enactment; a body or office which has been created by the LRO itself;
- Impose, abolish or vary taxation;
- Create a new criminal offence or increase the penalty for an existing offence so that it is punishable above certain limits;
- Provide authorisations for forcible entry, search or seizure, or compel the giving of evidence;
- Amend or repeal any provision of Part 1 of the LRRRA;
- Amend or repeal any provision of the Human Rights Act 1998;
- Remove burdens arising solely from common law.

Devolution

2.8 The LRRRA imposes certain restriction regarding LROs and the devolution agreements:

- **Scotland** – A Minister cannot make a LRO under Part 1 of the LRRRA which would be within the legislative competence of the Scottish Parliament. This does not affect the powers to make consequential, supplementary, incidental or transitional provisions.
- **Northern Ireland** – A Minister cannot make a LRO under Part 1 of the LRRRA that amends or repeals any Northern Ireland legislation, unless it is to make consequential, supplementary, incidental or transitional provisions.
- **Wales** – The agreement of the Welsh Ministers is required for any provision in a LRO which confers a function upon the Welsh Ministers, modifies or removes a function of the Welsh Ministers, or restates a provision conferring a function upon the Welsh Ministers. The agreement of the National Assembly for Wales is required for any provision in a LRO which is within the legislative competence of the Assembly.

Consultation

2.9 The LRRRA requires Departments to consult widely on all LRO proposals. The list of consultees, including the devolved administrations, to which this document has been sent, is at Annex B. It is also available on the internet at: www.gov.uk/fco. Comments are invited from all interested parties, and not just from those to whom the document has been sent. A response form is at Annex C.

2.10 A note explaining the Parliamentary process for LROs to be made under the LRRRA can be found at Annex D. This will help consultees understand when and to whom they are able to put their views should they wish to do so.

2.11 This consultation document follows the format recommended by the BRE for such proposals. The criteria applicable to all UK public consultations under the BRE Code of Practice on Consultation set out in Annex E.

Disclosure

2.12 Normal practice will be for details of representations received in response to this consultation document to be disclosed, and for respondents to be identified. While the LRRRA provides for non-disclosure of representations, the Minister will include the names of all respondents in the list submitted to Parliament alongside the draft LRO. The Minister is also obliged to disclose any representations that are requested by, or made to, the relevant Parliamentary Scrutiny Committees. This is a safeguard against attempts to bring improper influence to bear on the Minister. We envisage that, in the normal course of events, this provision will be used rarely and only in exceptional circumstances.

2.13 You should note that:

- If you request that your representation is not disclosed, the Minister will not be able to disclose the contents of your representation without your express consent and, if the representation concerns a third party, their consent too. Alternatively, the Minister may disclose the content of your representation but only in such a way as to anonymise it.
- In all cases where your representation concerns information on a third party, the Minister is not obliged to pass it on to Parliament if he considers that disclosure could adversely affect the interests of that third party and he is unable to obtain the consent of the third party.

2.14 Please identify any information which you or any other person involved do not wish to be disclosed. You should note that many facsimile and e-mail messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality, such as an indication in the tick-box provided for that purpose in the response form of Annex C.

Confidentiality and Freedom of Information

2.15 It is possible that requests for information contained in consultation responses may be made in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you do not want your response to be disclosed in response to such requests for information, you should identify the information you wish to be withheld and explain why confidentiality is necessary. Your request will only be acceded to if it is appropriate in all the circumstances. An automatic confidentiality disclaimer generated by your IT system will not of itself be regarded as binding on the Department.

Responding to the consultation document

2.16 Any comments on the proposals in this consultation document should be sent by 11 October 2013 to: bmdenquiries@fco.gov.uk. Please use “public consultation” in the email title.

You may alternatively send your comments, or any requests for further copies of this document to:

Consultation Coordinator
Overseas Residents Services Unit
Consular Directorate
Room WH547
Foreign and Commonwealth Office
King Charles Street
London
SW1A 2AH

Chapter 3: Background to the policy and legislation at issue

Background

3.1 There are differing procedures for British Nationals wishing to register a consular birth and death, depending on the country where the event took place. Most can be registered in the country where the event took place, and registrations are made locally in 130 overseas consular Posts. However, next of kin resident in the UK or in another country may apply directly to the FCO in London or to their nearest British Embassy or High Commission for such registration who then forward the application to the Embassy or High Commission in the country where the event took place. Additionally, the FCO in London registers events that take place in 25 difficult countries where the UK either has no diplomatic representation or where there are no Consular Registration Officers (examples include East Timor, Liberia, Somalia, Taiwan).

3.2 Applications for birth or death registration overseas cannot yet be made on-line and currently services provided overseas have to be paid for in the local currency.

3.3 Centralisation of consular birth and death registration in the UK would allow the FCO to provide a common on-line application procedure and credit card payment facility which the FCO considers would be more efficient and convenient for customers.

3.4 Birth and death registration overseas is a labour intensive process. Designated staff must make complicated nationality determinations, and make entries in manuscript in ledgers. Certified copies are either handwritten or typed. This administrative work detracts from FCO consular staff time whose primary function is to assist British Nationals in distress. A centralised, single-purpose unit in the UK would mean a more convenient and efficient system to provide an important service for British Nationals.

3.5 In order to determine whether to process a consular birth application, staff need to establish beyond doubt, by assessing the documentary evidence provided with the application, that the applicant does qualify for British nationality. This is a complex area, and only trained and qualified staff can make this decision. With the centralisation of the overseas passport issuing service from the consular network around the globe to the UK, FCO staff are losing experience in determining whether someone qualifies for British nationality, and there is an increasing risk that an incorrect decision may be made. An incorrect nationality determination could subsequently lead to a British passport being issued in error.

3.6 A central unit with suitably trained and qualified staff, handling all applications from British Nationals overseas, would reduce this risk to customers. It would also ensure that a consistent service is provided in regards to: determining British nationality through a well-trained, properly managed and stable central unit; producing high-quality registration certificates, both for record purposes and for British Nationals; ensuring that annual statutory returns are sent to the GRO (General Register Office) England and Wales in time; maintaining a central record of consular birth and death registrations by secure storage in a single location.

3.7 A smaller, central unit with specialised staff based in the UK, handling all applications from British Nationals overseas and in the UK, would take over from the current service provided by FCO overseas Posts. This would provide an efficient and coherent global service for British Nationals.

3.8 A centralised computer system would also make it simpler for searches to be made for overseas births and deaths. This search facility would provide a more convenient and efficient way for staff to conduct searches when requested, e.g. by families or solicitors.

British Nationality Act 1981 (Annex F)

3.9 Section 41 of the BNA, which is owned by the Home Office provides for regulations to be made enabling births and deaths overseas to be registered. The relevant regulations are the Registration of Overseas Births and Deaths Regulations 1982. Section 41(1)(g) to (i) of the BNA limits the regulation-making power in such a way that registration must be done overseas. Therefore the FCO intends to amend the BNA accordingly through a Legislative Reform Order.

Registration of Overseas Births and Deaths Regulations 1982 (Annex G)

3.10 Once the BNA has been amended through an LRO, the FCO would be able to make subsequent amendments to the 1982 Regulations. Once both the BNA and 1982 Regulations have been amended, the FCO would be able to centralise the service in the UK, and establish a centralised computer system of registers.

Chapter 4: the proposal

4.1 The proposal is to reduce the burden which results from current legislation by amending section 41(1)(g) to (i) of the BNA, as these provisions currently mean that consular births and deaths for British Nationals overseas can only be registered in the country where the event took place.

4.2 Amending these provisions would allow for the subsequent amendment to the 1982 Regulations. Once both the BNA and the 1982 Regulations have been amended, this would enable the FCO to establish a central consular birth and death registration unit in the UK, responsible for registering all consular births and deaths for British Nationals overseas.

Costs

4.3 No additional costs are anticipated for the LRO process.

4.4 Regarding setting up a new centralised birth and death registration unit, any costs will be covered by the FCO using internal resources.

4.5 There may be an additional increase in customer costs to cover postal/courier fees, however these will in some cases be offset as customers will no longer need to visit a consulate to make their application in person. Customers will have the option of paying online in Sterling.

4.6 British Embassies and High Commissions charge a statutory fee of £105 to register a birth or death and an additional £65 for each certified copy. This compares with local authorities in the UK who provide the registration free and charge variable costs up to £20 for certified copies. Centralisation in the UK would allow the FCO to investigate adjusting the cost of the service in future years, with the aim of reducing the cost to customers.

Chapter 5: Possible Parliamentary procedure

5.1 The Minister can recommend one of three alternative procedures for Parliamentary scrutiny dependent on the nature, aims and importance of the LRO. The negative resolution procedure is the least onerous and therefore may be suitable for LROs delivering small regulatory reform. The super-affirmative procedure is the most onerous involving the most in-depth Parliamentary scrutiny. Although the Minister can make the recommendation, Parliamentary Scrutiny Committees have the final say about which procedure will apply.

(i) **Negative Resolution Procedure** – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if neither House of Parliament has resolved during that period that the LRO should not be made.

(ii) **Affirmative Resolution Procedure** – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if it is approved by a resolution of each House of Parliament.

(iii) **Super-Affirmative Resolution Procedure** – This is a two-stage procedure during which there is opportunity for the draft LRO to be revised by the Minister

- This allows Parliament 60 days of initial scrutiny, when the Parliamentary Committees may report on the draft LRO, or either House may make a resolution with regard to the draft LRO Bullet style.
- If, after the expiry of the 60 day period, the Minister wishes to make the LRO with no changes, he must lay a statement. After 15 days, the Minister may then make a LRO in the terms of the draft, but only if it is approved by a resolution of each House of Parliament.
- If the Minister wishes to make material changes to the draft LRO he must lay the revised draft LRO and a statement giving details of any representations made during the scrutiny period and of the revised proposal before Parliament. After 25 days, the Minister may only make the LRO if it is approved by a resolution of each House of Parliament.

5.2 Under each procedure, the Parliamentary Scrutiny Committees have the power to recommend that the Minister not make the LRO. If one of the Parliamentary Committees makes such a recommendation, a Minister may only proceed with it if the recommendation is overturned by a resolution of the relevant House.

5.3 The Foreign and Commonwealth Office believes that the negative resolution procedure should apply to this LRO. The proposed changes are minor, and the details in the Regulations themselves are subject to negative procedure.

We ask if you agree that the negative Parliamentary procedure should apply to the scrutiny of these proposals.

Chapter 6: Legal analysis against requirements of the Legislative and Regulatory Reform Act 2006

6.1 As explained in paragraph 2.6, the proposals must satisfy the preconditions set out in section 3 of LRRRA06. Therefore, we would welcome your views on our analysis of how the proposal to amend the British Nationality Act 1981 meets these preconditions.

(i) Non Legislative solutions

Statutory provisions (the BNA and the 1982 Regulations) set out the way in which overseas births and deaths are registered. The 1982 Regulations can only be amended in line with the enabling powers in section 41(1)(g) to (i) of the BNA. At present this means that overseas births and deaths must be registered “there” (in the country overseas) under section 41(1)(g) and (h) if there is diplomatic or consular representation in that country. Only if there is no diplomatic or consular representation in a particular country can a birth or death be registered either in a third country (section 41(1)(i)(i)) or by another person authorised by the Secretary of State (section 41(1)(i)(ii)).

It is not possible to centralise the registration of births and deaths in countries where there is diplomatic or consular representation without amending the BNA. Amending the BNA will then enable the 1982 Regulations to be amended.

Therefore we consider that there is no non legislative solution which would achieve the aim to centralise the registration of overseas births and deaths.

We ask if you agree with our assessment in this regards.

(ii) Proportionality

The amendment we propose to make to the BNA is to remove the obligation for the registration of overseas births and deaths to take place in the country (“there”) where the birth or death took place. This would simplify the current provisions in the BNA by enabling regulations to be made for the registration of overseas births and deaths, without the requirement that the registration needs to be in any particular location.

We consider this to be the most proportionate way to achieve the policy objective to centralise the registration of overseas births and deaths.

We ask if you agree with our assessment in this regard.

(iii) Fair Balance

The balance that is to be struck is between those people who will welcome the new centralised system and those people who will not.

We consider that that the new centralised system will provide a consistency across the registration system which will benefit all users. A common application system for British Nationals, no matter where they are overseas or in the UK, would make the process simpler globally and benefit users.

Moving to an online system is fully in line with the Government's Digital by Default Strategy, and we consider that the change to an online system will benefit the majority of people. We anticipate that there will be a small percentage of customers who, because of their location overseas, may not have access to the internet. We will ensure that procedures are in place to handle these exceptional cases.

British Embassies and High Commissions charge a statutory fee of £105 to register a birth or death and an additional £65 for each certified copy. This compares with local authorities in the UK who provide the registration free and charge variable costs up to £20 for certified copies. Centralisation in the UK would allow the FCO to look into adjusting the cost of the service in future years, with the aim of reducing the cost to customers.

A central computerised system for birth and death registrations would make it simpler for searches to be made, which would benefit members of the public searching for records of family members.

We ask if you agree with our assessment in this regard.

(iv) Necessary protection

We do not consider that we are removing any necessary protection since births and deaths will still be registered under the centralised system.

We ask if you agree with our assessment in this regard.

(v) Rights and freedoms

We do not consider that we are preventing any person from continuing to exercise any rights or freedoms that the person might reasonably expect to be able to continue to exercise since births and deaths will still be registered under the centralised system.

We ask if you agree with our assessment in this regard.

(v) Constitutional significance

We do not consider that these proposals have a constitutional significance as these proposals are administrative in nature.

We ask if you agree with our assessment in this regard.

Annex A: Impact Assessment

This document is attached separately.

Annex B: List of consultees

Government Departments

UK Immigration and Visas (formerly UK Border Agency, part of the Home Office)
General Register Office for England and Wales
National Records of Scotland
General Register Office for Northern Ireland
Ministry of Justice
Home Office
Ministry of Defence

Non Government Departments

We have included expat organisations in the countries with the most demand for consular birth and death certificates

Expat Forum
Council of British Chambers of Commerce in Europe
St. George's Society
British Community Committee, France
British Business Group, Turkey
British Community Council, Turkey
British Chamber of Commerce, Japan
English Speaking Residents Association, Mallorca, Spain
Lions Club/Age Concern, Tenerife, Spain
Age Concern, Costa Blanca, Spain
British Society of Catalunya, Spain
British Residents Association of Switzerland
Boston Brits
The British Benevolent Society of California
Big Apple Brits
British Chamber of Commerce in Thailand
Pattaya City Expats Club
British Club Bangkok

Annex C: Response Form

Response form for consultation paper issued by the Foreign and Commonwealth Office regarding proposals for a Legislative Reform Order to amend the British Nationality Act (BNA) 1981

Please return by 11 October 2013 to:

Bmdenquiries@fco.gov.uk by email, or in writing to:

Consultation Coordinator
Overseas Residents Services Unit
Consular Directorate
Foreign & Commonwealth Office
King Charles Street
London
SW1A 2AH

Respondent Details:

Name:

Organisation:

Address:

Postcode:

Telephone:

Fax:

Email:

Are you requesting non-disclosure of your response: YES/NO

Q1. Do you support the proposal to centralise the consular birth and death registration service into the UK?

Yes / No / Don't know

Comments

Q2. Do you support the proposal to amend the British Nationality Act 1981 accordingly, in order for the birth and death registration service to be centralised?
Yes / No / Don't know
Comments
Q3. Do you think the proposal will remove or reduce burdens?
Yes / No / Don't know
Comments
Q4. Do you think there are any non-legislative means that would satisfactorily remedy the difficulties which the proposals are intending to address?
Yes / No / Don't know
Comments
Q5. Are the proposals put forward in this consultation proportionate to the policy objective?
Yes / No / Don't know
Comments
Q6. Do the proposals put forward in this consultation document taken as a whole strike a fair balance between the public interest and any person adversely affected by it?
Yes / No / Don't know
Comments
Q7. Can you identify any necessary protections which would be reduced or lost as a result of the proposals? If so, are they needed and how could they still be provided?
Yes / No / Don't know
Comments
Q8. Do the proposals put forward in this consultation prevent any person from continuing to exercise any right or freedom, which they might reasonably expect to continue to exercise?
Yes / No / Don't know
Comments

Q9. Do you agree that the proposed changes do not have a significant financial impact as set out in the Impact Assessment?
Yes / No / Don't know
Comments
Q10. Do you broadly agree with the cost estimates, assumptions and conclusions of the Impact Assessment?
Yes / No / Don't know
Comments
Q11. Do you agree that the proposed negative Parliamentary procedure as outlined in chapter 5 should apply to the scrutiny of these proposals?
Yes / No / Don't know
Comments
Q12. Do you have any further comments in relation to the proposals?
Yes / No / Don't know
Comments

Annex D: Legislative Reform Orders – Parliamentary consideration

Introduction

1. These reform proposals in relation to the British Nationality Act 1981 (BNA) will require changes to primary legislation in order to give effect to them. The Minister could achieve these changes by making a Legislative Reform Order (LRO) under the Legislative and Regulatory Reform Act 2006 (LRRRA). LROs are subject to preliminary consultation and to rigorous Parliamentary scrutiny by Committees in each House of Parliament. On that basis, the Minister invites comments on these reform proposals in relation to the constitution of the disciplinary committees of the RCVS as measures that might be carried forward by a LRO.

Legislative Reform Proposals

2. This consultation document on proposals to amend the BNA has been produced because the starting point for LRO proposals is thorough and effective consultation with interested parties. In undertaking this preliminary consultation, the Minister is expected to seek out actively the views of those concerned, including those who may be adversely affected, and then to demonstrate to the Scrutiny Committees that he or she has addressed those concerns.
3. Following the consultation exercise, when the Minister lays proposals before Parliament under section 14 of the LRRRA, he or she must lay before Parliament an Explanatory Document which must:
 - i) Explain under which power or powers in the LRRRA the provisions contained in the order are being made;
 - ii) Introduce and give reasons for the provisions in the Order;
 - iii) Explain why the Minister considers that:
 - There is no non-legislative solutions which will satisfactorily remedy the difficulty which the provisions of the LRO are intended to address;
 - The effect of the provisions are proportionate to the policy objective;
 - The provisions made in the order strike a fair balance between the public interest and the interests of any person adversely affected by it;
 - The provisions do not remove any necessary protection;
 - The provisions do not prevent anyone from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise;
 - The provisions in the proposal are not constitutionally significant; and

- Where the proposals will restate an enactment, it makes the law more accessible or more easily understood.
 - iv) Include, so far as appropriate, an assessment of the extent to which the provision made by the order would remove or reduce any burden or burdens;
 - v) Identify and give reasons for any functions of legislating conferred by the order and the procedural requirements attaching to the exercise of those functions; and
 - vi) Give details of any consultation undertaken, any representations received as a result of the consultation and the changes (if any) made as a result of those representations.
4. On the day the Minister lays the proposals and explanatory document, the period for Parliamentary consideration begins. This lasts 40 days under negative and affirmative resolution procedure and 60 days under super-affirmative resolution procedure. If you want a copy of the proposals and the Minister's explanatory document laid before Parliament, you will be able to get them from the Foreign and Commonwealth Office by emailing bmdenquiries@fco.gov.uk, or writing to Consultation Coordinator, Overseas Residents Services Unit, Consular Directorate, FCO King Charles Street, London, SW1A 2AH.

Parliamentary Scrutiny

5. Both Houses of Parliament scrutinise legislative reform proposals and draft LROs. This is done by the Regulatory Reform Committee in the House of Commons and the Delegated Powers and Regulatory Reform Committee in the House of Lords.
6. Standing Orders for the Regulatory Reform Committee in the Commons stipulate that the Committee considers whether proposals:
- (i) appear to make an inappropriate use of delegated legislation;
 - (ii) serve the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the LRRRA);
 - (iii) serve the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the LRRRA);
 - (iv) secure a policy objective which could not be satisfactorily secured by non-legislative means;
 - (v) have an effect which is proportionate to the policy objective;
 - (vi) strike a fair balance between the public interest and the interests of any person adversely affected by it;

- (vii) do not remove any necessary protection;
 - (viii) do not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
 - (ix) are not of constitutional significance;
 - (x) make the law more accessible or more easily understood (in the case of provisions restating enactments);
 - (xi) have been the subject of, and takes appropriate account of, adequate consultation;
 - (xii) give rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 (Statutory Instruments (Joint Committee)) as are relevant, such as defective drafting or failure of the department to provide information where it was required for elucidation;
 - (xiii) appear to be incompatible with any obligation resulting from membership of the European Union;
7. The Committee in the House of Lords will consider each proposal in terms of similar criteria, although these are not laid down in Standing Orders.
 8. Each Committee might take oral or written evidence to help it decide these matters, and each Committee would then be expected to report.
 9. Copies of Committee Reports, as Parliamentary papers, can be obtained through HMSO. They are also made available on the Parliament website.
 10. Under negative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise a LRO, after which the Minister can make the order if neither House of Parliament has resolved during that period that the order should not be made or to veto the LRO.
 11. Under affirmative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise a LRO, after which the Minister can make the order if it is not vetoed by either or both of the Committees and it is approved by a resolution of each House of Parliament.
 12. Under super-affirmative procedure each of the Scrutiny Committees is given 60 days to scrutinise the LRO. If, after the 60 day period, the Minister wishes to make the order with no changes, he may do so only after he has laid a statement in Parliament giving details of any representations made and the LRO is approved by a resolution of each House of Parliament. If the Minister wishes to make changes to the draft LRO he must lay the revised LRO and as well as a statement giving details of any representations made during the scrutiny period and of the

proposed revisions to the order, before Parliament. The Minister may only make the order if it is approved by a resolution of each House of Parliament and has not been vetoed by either or both relevant Committees.

How to Make Your Views Known

13. Responding to this consultation document is your first and main opportunity to make your views known to the relevant department as part of the consultation process. You should send your views to the person named in paragraph 2.16 and Annex C of this consultation document. When the Minister lays proposals before Parliament you are welcome to put your views before either or both of the Scrutiny Committees.
14. In the first instance, this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence.
15. Your submission should be as concise as possible, and should focus on one or more of the criteria listed in paragraph 6 above.
16. The Scrutiny Committees appointed to scrutinise Legislative Reform Orders can be contacted at:

Delegated Powers and
Regulatory Reform Committee
House of Lords
London
SW1A 0PW

Tel: 020 7219 3103
Fax: 020 7219 2571

mail to: DPRR@parliament.uk

Regulatory Reform Committee
House of Commons
7 Millbank
London
SW1P 3JA

Tel: 020 7219 2830/4404/2837
Fax: 020 7219 2441

mailto: regrefcom@parliament.uk

Non-disclosure of responses

17. Section 14(3) of the LRRRA provides what should happen when someone responding to the consultation exercise on a proposed LRO requests that their response should not be disclosed.
18. The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed, the Minister should not disclose the content of that representation without your express consent and, if the representation relates to a third party, their consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

Information about Third Parties

19. If you give information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party to disclose. This applies whether or not you ask for your representation not to be disclosed.
20. The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of legislative reform orders.

Better Regulation Executive Department for Business, Innovation and Skills

Annex E: Consultation criteria

The criteria in the ["Code of Practice on Consultation"](#) published by the BRE apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory or external requirements (e.g. under European Community law) they should otherwise generally be regarded as binding on UK Departments and their agencies unless Ministers conclude that exceptional circumstances require a departure.

The criteria should be reproduced in consultation documents with an explanation of any departure, and confirmation that they have otherwise been followed.

(i) **When to consult:** Formal consultation should take place at a stage when there is scope to influence the policy outcome.

(ii) **Duration of consultation exercises:** Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

(iii) **Clarity of scope and impact:** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

(iv) **Accessibility of consultation exercises:** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

(v) **The burden of consultation:** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

(vi) **Responsiveness of consultation exercises:** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

(vii) **Capacity to consult:** Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The FCO believes that in relation to this particular consultation that we have followed the seven criteria in the Code of Practice. Criterion 7 is met through the designation of a consultation co-ordinator. If you consider that this consultation does not comply with the criteria or have comments about the consultation process, please contact:

Consultation Coordinator
Overseas Residents Services Unit
Consular Directorate
Foreign & Commonwealth Office
King Charles Street
London
SW1A 2AH

bmdenquiries@fco.gov.uk

Annex F: British Nationality Act 1981, Section 41(1)

41. Regulations and Orders in Council.

(1) The Secretary of State may by regulations make provision generally for carrying into effect the purposes of this Act, and in particular provision—

(g) for the births and deaths of persons of any class or description born or dying in a country mentioned in Schedule 3 to be registered there by the High Commissioner for Her Majesty's government in the United Kingdom or by members of his official staff;

(h) for the births and deaths of persons of any class or description born or dying in a foreign country to be registered there by consular officers or other officers in the service of Her Majesty's government in the United Kingdom;

(i) for enabling the births and deaths of British citizens, **[F4**British overseas territories citizens], **[F5**British Nationals (Overseas),] British Overseas citizens, British subjects and British protected persons born or dying in any country in which Her Majesty's government in the United Kingdom has for the time being no diplomatic or consular representatives to be registered—

(i) by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with Her Majesty's government in the United Kingdom, has undertaken to represent that government's interest in that country, or

(ii) by a person authorised in that behalf by the Secretary of State.

Annex G: The Registration of Overseas Births and Deaths Regulations 1982

Made - - - 26th July 1982

Authority: British Nationality Act 1981, s 41(1)(g), (h), (i)

UK Parliament SIs 1980-1989/1982/1101-1150/Registration of Overseas Births and Deaths Regulations 1982 (SI 1982/1123)/1 Citation and entry into force

1 Citation and entry into force

These Regulations may be cited as the Registration of Overseas Births and Deaths Regulations 1982 and shall come into operation on 1st January 1983.

NOTES

Initial Commencement

Specified date

Specified date: 1 January 1983: see above.

UK Parliament SIs 1980-1989/1982/1101-1150/Registration of Overseas Births and Deaths Regulations 1982 (SI 1982/1123)/2 Interpretation

2 Interpretation

(1) In these Regulations, unless the context otherwise requires:

"consular officer" means any person authorised by the Secretary of State to exercise consular functions,

["register" means any register maintained in accordance with Regulation 4 or any register maintained in accordance with any regulations made under the British Nationality Acts 1948 to 1965,]

"registration officer" means

- (a) any consular officer or other officer in the service of Her Majesty's government in the United Kingdom entrusted with the registration of births and deaths in a foreign country, or
- (b) in any country mentioned in Schedule 3 to the British Nationality Act 1981, the High Commissioner for Her Majesty's government in the United Kingdom or members of his official staff, or
- (c) in or for any country in which Her Majesty's government has for the time being no diplomatic or consular representative:

(i) any person serving in the diplomatic, consular or other foreign service of any country which, by arrangement with Her Majesty's government in the United Kingdom, has undertaken to represent that government's interests in that country, or

[(ii) any person authorised by the Secretary of State to be in charge of any registers of births or deaths kept at the Foreign and Commonwealth Office, or]

(iii) any other person authorised by the Secretary of State to register births and deaths occurring in a country overseas in any register kept for that country.

"ship" includes a hovercraft within the meaning of the Hovercraft Act 1968.

(2) "commencement" in these Regulations means the date of coming into force of the British Nationality Act 1981.

3 Fees

The fees to be charged for services performed in accordance with these Regulations shall be such fees as may from time to time be prescribed under the Consular Fees Act 1980.

4 Registers

(1) In each country in which the Secretary of State has so authorised, there shall be maintained registers of births and deaths in which may be recorded the birth or death within the country of a person in respect of whom a registration officer has received an application together with the prescribed fee and is satisfied that the birth or death should be properly entered therein.

(2) The registers specified in paragraph (1) may be kept in such consulates, embassies, High Commissions or other places, whether inside or outside the country concerned, as the Secretary of State may from time to time determine.

(3) There may be kept at the Foreign and Commonwealth Office a register of births and a register of deaths in which may be registered births and deaths in any country in which Her Majesty has for the time being no diplomatic or consular representative [or in which for any other reason the Secretary of State may consider it impracticable to register births and deaths.].

5 Births which may be registered

(1) The following births, having occurred outside the United Kingdom, or outside any territory listed in Schedule 6 to the British Nationality Act 1981, may, when reported in writing by an informant having knowledge of the event to the registration officer for the time being in charge of the appropriate register, be registered in the manner prescribed by these Regulations:

(a) the birth of a person, born after commencement, who was at birth a British citizen under the provisions of section 2 of the British Nationality Act 1981;

(b) the birth of a person, born before commencement, who acquired at birth citizenship of the United Kingdom and Colonies and who became a British citizen at commencement;

(c) the birth of a person, born after commencement, who was at birth a [British overseas territories citizen] under the provisions of section 16 of the British Nationality Act 1981;

(d) the birth of a person, born before commencement, who acquired at birth citizenship of the United Kingdom and Colonies and who became a [British overseas territories citizen] at commencement;

(e) the birth of a child, born in a foreign country during the twelve months immediately preceding the date of commencement, whose father was at the time of the child's birth a citizen of the United Kingdom and Colonies by descent only, providing that registration is effected before the child has attained its first birthday;

[(f) the birth of a person, born before commencement, who acquired at birth citizenship of the United Kingdom and Colonies and who became a British Overseas citizen at commencement;]

[(g) the birth of a person, born on or after 1st July 1997, who was at birth a British Overseas citizen under the provisions of paragraph 6(2) of the Hong Kong (British Nationality) Order 1986.]

(2) A registration officer shall not register a birth unless satisfied as to the facts by the production of a locally issued certificate of birth and such evidence as may be necessary to establish the citizenship of the person whose birth is to be registered.

(3) The registration officer may at any time on the authority of the Secretary of State re-register the birth of a child born illegitimate whose birth has previously been registered under paragraph (1)(a), (b), (c) or (d) if he is satisfied by the evidence produced that [the person has been legitimated by the subsequent marriage or civil partnership of his or her parents] and the necessary fees have been produced. The registration officer shall then cancel the original entry.

6

Without prejudice to the provisions of section 50(7) of the British Nationality Act 1981, in these Regulations a birth occurring aboard a registered ship or aircraft shall be deemed to have occurred in the place in which the ship or aircraft was registered, or if aboard an unregistered ship or aircraft of the government of any country, in that country.

7 Entries of Births

(1) Entries in registers of birth shall be made and numbered consecutively and each entry shall constitute a record of one birth.

(2) Each entry in the register shall contain the following:

Concerning the child

1 date and place of birth; with time of birth in the case of twins or multiple births

2 full names and surname

3 sex

4 claim to British citizenship or [British overseas territories citizenship] [or British Overseas citizenship]

[Concerning the father or woman who is a parent of a child by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008]

5 full names and surname

6 date and place of birth

7 occupation at time of child's birth

8 claim to citizenship

Concerning the mother

9 full names and surname

10 maiden surname

11 surname at marriage if different from maiden surname.

12 date and place of birth

13 occupation at time of child's birth

14 claim to citizenship

Concerning the informant

15 full names and surname

16 relationship to child or other qualifications

17 postal address

Concerning registration

18 date of registration

19 signature of registration officer.

(3) Where an entry in the register records the birth of a child of a father or mother born in Scotland or Northern Ireland the registration officer shall mark the entry with the letter "S" or "NI" as appropriate, in the margin of the register. The Registrar General for England and Wales in

London shall transmit a certified copy of such an entry to the Registrar General in Edinburgh or the Registrar General in Belfast as the case may be.

(4) Where doubt exists as to the date of an event, the approximate date may be entered preceded by the word "about".

8 Deaths which may be registered

(1) The following deaths, having occurred outside the United Kingdom or outside any territory listed in Schedule 6 of the British Nationality Act 1981, may, when reported in writing by an informant having knowledge of the event and of the identity of the deceased to the registration officer for the time being in official charge of the appropriate register, be registered in the manner prescribed by these Regulations:

(a) the death of any person who, at the time of his death, was a British citizen, [British National (Overseas),] [British overseas territories citizen] or British Overseas citizen;

(b) the death, before commencement, of any person who, but for his death would have become a British citizen, [British overseas territories citizen] or British Overseas citizen at commencement.

(2) Subject to Regulation 9, a registration officer shall not register a death unless satisfied as to the facts of the case by the production of a locally issued certificate of death. Details of the evidence submitted shall be recorded in the entry by the registration officer.

(3) In a country where certificates of death are not issued by local authorities, the registration officer may require that there be produced to him a medical practitioner's certificate of death or such other documentary evidence as may be sufficient to satisfy the officer as to the occurrence of the death and the identity of the deceased person. Details of the evidence of death produced shall be shown in the entry in the register.

9 Deaths on ships, aircraft and oil rigs and in territorial waters

(1) A death occurring on a registered ship, aircraft or oil rig, shall be deemed to have occurred in the place in which the ship, aircraft or oil rig was registered, or if on an unregistered ship, aircraft or oil rig of the government of any country, in that country.

(2) A person found dead in the territorial waters of another country shall be deemed to have died in its territorial waters if it is not established that he died elsewhere.

(3) Where a death occurs outside territorial waters, that death may be entered in the register of deaths kept by the registration officer in the country or district where a local certificate of death has been issued in respect of that death.

(4) Where evidence of death is shown only by a certified copy of an extract from the official log of the ship, or aircraft on or from which the death occurred, or by a certified copy of an

extract from the official log of an oil rig, the death may be entered in the Register of Deaths kept at the Foreign and Commonwealth Office.

10 Entries of Death

(1) Entries in registers of death shall be made and numbered consecutively and each entry shall constitute a record of one death.

(2) Each entry in the register shall contain the following:--

Concerning the deceased

- 1 date and place of death
- 2 name and surname
- 3 sex
- 4 maiden surname of a woman who has married
- 5 date and place of birth
- 6 occupation
- 7 address of usual residence
- 8 claim to citizenship
- 9 evidence of death seen by registration officer

Concerning the informant

- 10 name and surname
- 11 relationship to the deceased or other qualification
- 12 postal address

Concerning the registration

- 13 date of registration
- 14 signature of registration officer.

(3) Where an entry in the register records the death of a person born in Scotland or Northern Ireland, or who is a British citizen by descent from a father or mother so born, a registration officer shall mark the entry with the letter "S" or "NI" as appropriate, in the margin of the register. The Registrar General for England and Wales in London shall transmit a certified copy of such

an entry to the Registrar General in Edinburgh or the Registrar General in Belfast as the case may be.

(4) Where doubt exists as to the date of an event, the approximate date may be entered preceded by the word "about".

11 Registration

On receiving from an informant an application and the prescribed fee for the registration of a birth or a death and on seeing evidence to show that the birth or death properly falls to be registered under Regulation 5 or Regulation 8, the registration officer for the time being in charge of the appropriate register shall record, as precisely as possible, those particulars required under Regulation 7 or Regulation 10.

12 Corrections of errors or omissions

(1) An entry in a register shall be deemed to have been completed by the signature of a registration officer.

(2) If a registration officer discovers any error or omission before completing an entry in a register he shall either--

(a) correct it by ruling through the incorrect particulars and inserting above them the correct particulars, or by inserting the particulars omitted, and by adding his initials in the margin; or

(b) draw a line diagonally through the uncompleted entry, write against it in the margin the words "For correct entry see No" and make the correct entry in the next unused number in the register.

(3) If any omission, discrepancy between facts recorded, or other error is discovered in an entry which has been completed by the registration officer, the same or any other registration officer may, provided he is satisfied as to the correctness of any amendment proposed to be made, correct the entry in accordance with the following directions:--

(a) If the error appears to him to be accidental or of a clerical nature the officer may correct it by ruling through any incorrect particulars and by inserting and underlining the correct particulars or the particulars omitted. He shall then insert in the margin of the entry a note to the following effect:--

"Entry (No) Space (No) corrected on
(date) by me (signature) Registration Officer".

(b) If the officer is not satisfied that the error is one which he might treat as falling within (a) he shall require the original informant or some other person cognisant of the facts to furnish such documentary or other evidence as may be necessary to establish the facts. Any corrections which the officer thinks it proper to make shall be made by underling (but not

altering) any erroneous particulars and inserting in the margin of the entry a note to the following effect:--

"In entry No Space No for "(the erroneous particulars)" read "(corrected particulars)" or "insert the words" " "" or as the case may require, followed by the date, his signature and official description.

(c) If a registration officer considers that the corrections to an entry relating to a birth are too numerous or are likely to cause difficulty in later years, he may re-register the birth and draw a diagonal line through the original entry adding to the margin "Re-registered at No on (date)" followed by his signature.

(4) Before correcting an entry in accordance with paragraph (3), the registration officer shall, unless the correction is made in the presence of the original informant, take such action as may be reasonable to ensure that notice in writing of the precise correction to be made is given to the original informant or, in the case of a registration of birth, to the person whose birth entry is being corrected or, if that person is a minor, his parent or guardian or, in the case of a registration of death, to the relatives or personal representatives of the deceased.

[(5) Where, after completion of an entry in the register of births, the person to whom the entry relates is given one or more Christian or forenames in baptism or otherwise, which differ from the Christian or forenames (if any) recorded therein, the name or names so given may, subject to the production of satisfactory evidence that the child has been known by the new or additional name or names since its earliest years, be recorded in the register without alteration of the previous name or names.]

(6) Where an entry relates to a birth or death which should not have been registered, a registration officer may cancel the entry by drawing a diagonal line through the entry and showing in the margin the reason for the cancellation followed by his signature and the date.

13 Procedure in doubtful cases

If such documentary evidence as may have been furnished to the registration officer in accordance with these Regulations does not satisfy the registration officer of the accuracy of the statements made to him or if the officer is not fully satisfied that the national status of the person whose birth or death he is requested to register is such that the registration could properly be effected under these Regulations, the officer should refer the matter, with a full report of the circumstances, to the Secretary of State.

14 Power to waive conditions

- (1) Where the Secretary of State is satisfied that a birth or death is one which should be registered in a register of births or deaths or that an amendment or correction of an entry is one that should be made and that these Regulations cannot reasonably be complied with, he may authorise the registration, re-registration, amendment or correction subject to such conditions as he considers appropriate.
- (2) In particular, and without prejudice to the generality of paragraph (1), the Secretary of State may impose the requirement of a statutory declaration.

15 Adoptions

- (1) A registration officer shall, upon receipt of information from the Registrar General for England and Wales in London as to the making, quashing or revoking of an adoption order made in the United Kingdom in respect of a person whose birth overseas has been recorded in a register of births, make such marginal additions as may be specified by the Registrar General to the entry relating to that person. Such additions shall be recorded in the manner and form directed in instructions issued under Regulation 17.
- (2) Having complied with the provisions of the foregoing paragraphs, a registration officer shall forthwith transmit to the Registrar General, a copy, duly certified and sealed, of the entry showing the additions.

16 Certified copies

- (1) A certified copy of an entry in a register, other than an entry which has been invalidated, shall be provided upon request and on payment of the prescribed fee.
- (2) Every certified copy shall be a copy of the whole entry and shall show any deletion, insertion, underlining or marginal inscription. The copy may be certified by any registration officer, under his hand, official description and official seal, to be a true copy of the entry.
- (3) The registration officer for the time being in charge of any register of births or deaths shall, before the first day of February each year, send certified copies of all entries made therein during the previous year to the Registrar General for England and Wales in London.
- (4) If no entry has been made during the previous year the registration officer shall submit to the Registrar General a certificate to that effect.
- (5) Where an entry is cancelled, amended or annotated in any way after a certified copy thereof has been sent to the Registrar General, the registration officer shall immediately send to the Registrar General a further certified copy of that entry.

17

The Secretary of State may from time to time give such instructions as to the functions or duties of registration officers as he considers necessary.



Foreign &
Commonwealth
Office

ANNEX B

Summary of responses to the consultation on the proposal to use a legislative reform order to make changes to the British Nationality Act 1981

www.gov.uk/government/organisations/foreign-commonwealth-office

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October 2013

Introduction

This document contains a summary of responses to the consultation to seek views on the Foreign and Commonwealth Office's (FCO) proposal to use a Legislative Reform Order (LRO) to make changes to the British Nationality Act (BNA) 1981. Changing the Act will allow the FCO to change the way births and deaths of British Nationals overseas are registered. The formal 12 week public consultation commenced on 19 July and ended on 11 October 2013. The FCO published its consultation document on www.gov.uk and separately sought views from stakeholders including other government Departments with an interest in birth and death registrations. This document outlines the Government's proposed next steps.

Background

Current regulations oblige the FCO to register births and deaths overseas of qualified British Nationals when asked. There are differing procedures for British Nationals wishing to register a birth and death, depending on the country where the event took place. Most can be registered in the country of birth or death, and registrations are made locally in 130 overseas consular Posts. Additionally, next of kin resident in the UK or in another country may apply direct to the FCO in London or to their nearest British Embassy or High Commission, who then forward the application to the Embassy or High Commission in the country where the event took place. In addition, the FCO in London registers events that take place in 25 countries where the UK either has no diplomatic representation or where there are no Consular Registration Officers.

The FCO is seeking to centralise its consular birth and death registration service into a new unit to be set up in the UK. A central unit with suitably trained and qualified staff, handling all applications from British Nationals overseas, would reduce a number of risks and provide an efficient and coherent global service for customers, including a common on-line application procedure and credit card payment facility.

The FCO proposes to amend the British Nationality Act (BNA) 1981, specifically those parts that deal with the registration of births and deaths overseas. Changes are needed to allow the FCO to discontinue consular registrations of births and deaths overseas and establish a single specialist unit in the UK to register births and deaths centrally. This proposal will affect British Nationals resident either in the UK or overseas who wish to apply for a consular birth or death registration.

Section 41(1) (g) to (i) of the BNA provides for regulations to be made enabling births and deaths overseas to be registered. The relevant regulations are the Registration of Overseas Births and Deaths Regulations 1982. Section 41 of the BNA limits the regulation-making power in such a way that registration must be done overseas. Amending these provisions would allow the FCO to make subsequent amendments to the 1982 Regulations and allow the FCO to establish a central consular birth and death registration unit in the UK, responsible for registering all consular births and deaths for British Nationals overseas. The FCO proposes to amend the BNA by means of a Legislative Reform Order (LRO).

Summary of responses

The FCO is grateful to all those who participated in this consultation and is grateful for all the responses received. We consulted seven Government Departments who have an interest in our plans:

UK Immigration and Visas
General Register Office for England and Wales
National Records of Scotland
General Register Office for Northern Ireland
Ministry of Justice
Home Office
Ministry of Defence

We published our consultation on www.gov.uk, and sent weekly tweets from the FCO's Travel Advice twitter account (over 47,000 followers) to promote our consultation. We also contacted 18 expat organisations in the countries with the most demand for consular birth and death certificates. A number of these agreed to publish information about the consultation to their members, including on their websites or through their newsletters:

Expat Forum
St. George's Society
British Community Committee, France
British Chamber of Commerce, Japan
Age Concern, Costa Blanca, Spain
British Residents Association of Switzerland
Pattaya City Expats Club, Thailand

In addition, our Embassy in Dubai gave a short radio interview on the consultation, and a short article was published in a local expat newspaper in the UAE.

We received seven responses to the consultation, of which three included a completed online questionnaire which the FCO posted on the gov.uk website as part of its consultation document.

Responses to specific consultation questions

Q1. Do you support the proposal to centralise the consular birth and death registration service into the UK?

All respondents answered yes. One suggested that further clarification was needed. A second raised the points that the total cost to the customer should not increase; there should be a local contact to help resolve questions over supporting documents; and translation of documents would be an issue. A third stated that an on-line centralised system would be preferable to having to travel to the British Embassy.

Q2. Do you support the proposal to amend the British Nationality Act 1981 accordingly, in order for the birth and death registration service to be centralised?

All respondents answered yes. One suggested that further clarification was needed. One noted that a similar centralisation for passport issuing had helped considerably.

Q3. Do you think the proposal will remove or reduce burdens?

Two respondents answered yes – providing that as much as possible is done online, and specialised staff are appropriately trained. One respondent replied no – the current system serves the public well and personal interaction with consular staff would be lost.

Q4. Do you think there are any non-legislative means that would satisfactorily remedy the difficulties which the proposals are intending to address?

Two respondents answered no. One answered yes, by modifying Option 3 in the Impact Assessment (London to provide nationality determinations, and overseas posts to make register entries). The applicant could provide documents to the local consulate for approval, providing assistance if needed to the applicant, with the centralised process completely online.

Q5. Are the proposals put forward in this consultation proportionate to the policy objective?

Two respondents answered yes, one acknowledging that a change of law is required to make a minor change to allow centralisation. One respondent answered 'don't know'.

Q6. Do the proposals put forward in this consultation document taken as a whole strike a fair balance between the public interest and any person adversely affected by it?

One respondent answered yes – a central office of trained specialists may help ensure correct nationality determinations.

One respondent responded no, and commented on a lack of clarity over issues that may arise regarding specific regulations in the country of residence, if these interfered with the UK registration process.

One respondent commented that it would be impossible to say as the consultation document may have underestimated the problem of internet access in remote parts of the world.

Q7. Can you identify any necessary protections which would be reduced or lost as a result of the proposals? If so, are they needed and how could they still be provided?

Two respondents answered no.

One respondent answered yes – consulates can currently provide supporting letters for applicants if local authorities need clarification of documents. A new system would require some flexibility and understanding of local requirements.

Q8. Do the proposals put forward in this consultation prevent any person from continuing to exercise any right or freedom, which they might reasonably expect to continue to exercise?

Two respondents answered no.

One respondent answered yes – a potential lack of consular support to handle registrations with understanding of the local language.

Q9. Do you agree that the proposed changes do not have a significant financial impact as set out in the Impact Assessment?

One respondent answered yes – changes may have a positive impact.

One respondent answered no – there would be a financial benefit for the FCO, but extra courier and translation costs for the customer were likely to be much higher.

One respondent didn't specifically answer, but stated that the proposal had only a vague undertaking to investigate possible savings to the public, and it seemed to be a cost-cutting exercise for HM Treasury.

Q10. Do you broadly agree with the cost estimates, assumptions and conclusions of the Impact Assessment?

Two respondents answered yes – one expanded that customer costs should be considered more carefully.

One respondent didn't specifically answer, but noted the lack of clear cost information.

Q11. Do you agree that the proposed negative Parliamentary procedure as outlined in chapter 5 should apply to the scrutiny of these proposals?

All respondents answered yes. One expanded, noting that modern communication technology is radically different from when the BNA came into being, and a negative Parliamentary procedure was appropriate for the proposed relatively minor administrative change required.

Q12. Do you have any further comments in relation to the proposal?

We received two replies to this question:

- Agreement to the proposal stems from the fact that the service currently provided by the FCO in the respondent's country is minimal, so online centralisation would be a benefit.
- If one of the reasons for change is the risk of mistakes, then a solution could be better training. The respondent noted that lack of training could be linked to an overall Whitehall drive to cut costs at the expense of reduced personal service.

General responses to the consultation

In addition to the three completed response forms, we received four e-mails with general comments:

- Option 1 (centralise FCO's consular birth and death registration service) would be a good way forward, particularly an immediate service without the need for an appointment. Making part of the service electronic could reduce criminal activities.
- No reason why registration could not be done by a single organisation in the UK. A specialised office/database could also be introduced for death registrations in France and Spain, given the large number of British nationals retired there. This could provide a UK certificate based on the foreign one. Staff would only need to be familiar with French/Spanish certificates and translations. This could be part of a reciprocal arrangement with France/Spain.
- This is another cost saving measure. Mistakes and fraud are likely to increase with the removal of local knowledge and experience and an insecure online application system. Nationality decisions for overseas passport and birth registrations are performed by separate teams, therefore repatriation of passports would not increase the likelihood of nationality mistakes.

- This is simply a proposal to save money overseas and further reduce British Embassy service to expats.

Government response

We would like to take this opportunity to thank all respondents who have contributed to the consultation, and to those organisations that kindly agreed to promote the consultation with their members.

Having held a detailed consultation and taken into account all views, we have decided to proceed with our Option 1 and centralise the FCO's consular birth and death registration service. Full consideration has been given to the results of the consultation and views on the Impact Assessment. We aim to achieve this through a negative Parliamentary Legislative Reform Order (LRO) procedure to amend the BNA, and subsequently FCO Regulations, to allow for centralisation of this service.

We appreciate that initial customer costs will increase as they will need to meet postal/courier fees, but we aim to reduce fees for registration and certified copies at the earliest opportunity, once running costs of the new centralised unit are clearer.

We understand the concern raised over the possible risk of increased documentary fraud for birth registration applications from certain parts of the world, and the removal of local knowledge and experience to counter this risk. We are working closely with our overseas network to produce local information packs that registration officers in the UK can refer to when assessing documentation received for birth registration applications. We are also investigating ways to harness the expertise of HM Passport Office's (HMPO) counter fraud network overseas, who deal with passport applications. To further reduce risk we will encourage all applicants to apply for a full validity passport before applying for a consular birth registration. Applications for passports are dealt with by HMPO staff who assess the fraud risk.

We note one respondent's suggestion to modify option 3 of the Impact Assessment (London to provide nationality determinations and overseas posts to make registration entries). Our view remains that this would be an administratively unwieldy process. In addition, it would not help the FCO to achieve one of its main aims of the proposal, namely to help free up staff overseas from non-urgent administrative tasks, and focus on the FCO's primary consular function of assisting British nationals in distress overseas.

Next steps

We will proceed with Policy Option 1, i.e. to amend the BNA by means of an LRO, allowing the FCO to establish a central consular birth and death registration unit in the UK by April 2014. The LRO will be laid before Parliament in December.