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cc PS/Dr Boyson (B & L)
PS/PUS (B & L)
Mr Brennan
Dr Quigley
Mr Merifield
Mr Abbott
Mr Carvill

HCS/2/13

PS/Secretary of State (B & L)

NICS NATIONALITY REGULATIONS

1. I am informed by Dr Quigley of DFP that in the near future the Civil Service Commission for Northern Ireland will be in a position to make new General Regulations (catching up a number of desirable changes) which must include Nationality provisions. Early action is in any case desirable because Mr Enoch Powell MP has queried current recruitment literature in the light of the British Nationality Act 1981, and Dr Boyson is understandably keen that we should regularise our position as soon as possible.
2. Although the specific point raised by Mr Powell does not bear at all upon the question of allowing Irish citizens to be recruited to the NICS, it is clear that it would be inappropriate to revise the wording of the current Nationality requirements without addressing that issue. The Secretary of State will recall that this was amongst the matters discussed at his meeting on "Irish Identity" on 13 December 1984, at which he reached the conclusion that a change in the Nationality regulations could form part of any wider package.
3. When Mr Prior previously addressed this matter in January 1983 (and I attach as an annex an extract from a more comprehensive note dealing with the issue) he decided that Ministers should not take an initiative in seeking change at that time, but that the possibility of changing the rules should be kept as a possible concession which could be offered if it was thought desirable in discussions with the Republic of Ireland.
4. Subsequently, following evidence taken by the Finance and Personnel Committee of the Assembly, the Assembly published a report on Anglo-Irish issues, principally as they affect the DFP. By a letter of 3 July 1984 Mr Prior conveyed the Government's response to the recommendations in that report. These included the specific recommendations:
 - (ii) "There should be no change in the present Nationality criteria for recruitment to the Northern Ireland Civil Service."
 - (iii) "If, in future, change in the Nationality criteria for recruitment to the NICS is contemplated, the Finance and Personnel Committee

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should be consulted before any action is taken."

The Government response to these recommendations was:-

"The Committee's view is noted and, if there were any plans to change the present Nationality criteria for recruitment to the NICS, the Committee would be consulted."

5. In sum, then, the situation is as follows:-

- (a) There is a binding commitment on the part of Government to consult the Finance and Personnel Committee in the event of plans to change the present Nationality criteria.
- (b) We know that the Finance and Personnel Committee is opposed to any such change.
- (c) The justification for a change would have to be the desirability in principle of moving in this respect to parity with the Home Civil Service. On the other hand there would be some evident disadvantages. We would be seen as widening the area of competition for jobs in Northern Ireland in the face of a severe continuing unemployment problem, and in the absence of any evidence that we do not have a more than adequate field from which to draw in filling NICS posts. Moreover, a move in this direction could complicate and muddy the much more significant process of following through our Equal Opportunities policy for NICS.
- (d) The position of the Northern Ireland Civil Service Commission remains essentially that parallelism in Nationality requirements has attraction in principle, that in the circumstances of the day it is difficult to justify change on labour market logistical or resource criteria, but that the Commission would of course operate whatever Nationality criteria the Secretary of State might decide to be appropriate on political grounds.

6. We therefore now have before us the following options:-

- (a) To proceed as soon as ready with new General Regulations including a change in the Nationality Provisions to allow

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Irish citizens to be considered. This would involve prior consultation with the Finance and Personnel Committee of the Assembly in discharge of the Government's previous commitment.

- (b) To proceed when ready with those regulations without such a change. This would in practice mean deferring further consideration of the issue for some time, since it would seem very odd to introduce new General Regulations which, inter alia, would change the wording of the Nationality Provisions in other respects, and then shortly thereafter to bring forward a further amendment on that specific point.
- (c) To defer the making of new General Regulations until we are ready to move forward with a package of "Irish Identity" measures in some wider context. But if we do this, it would seem peculiar to consult the Assembly about one element of the package and not about others. Moreover, the making of new General Regulations is overdue, having regard to pressure from Mr Powell and other considerations.

7. The Secretary of State may wish to discuss further how best to handle this issue. If he decides to do so, I would wish also to involve Dr Quigley both as Chairman of the Civil Service Commission and as Permanent Secretary of the Department concerned with NICS management.

x P Bloomfield

K P BLOOMFIELD
6 February 1985

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NORTHERN IRELAND CIVIL SERVICE NATIONALITY RULES

The NICS nationality rules ought to be revised both to take account of the British Nationality Act and for wider reasons. On present plans the revised general regulations would be introduced in the Spring. We are considering whether, if Ministers saw advantage in delay, it would be acceptable, administratively and legally, to postpone the revision and rely on consequential provision in the Nationality Act itself. Assuming that there are new regulations, the question arises of whether to use this opportunity to change the nationality requirements to bring them into line with the rest of the UK. The UK Home Civil Service treats Irish citizens on the same basis as citizens of Commonwealth countries, but the NICS does not. Irish citizens are therefore recruited to the NICS only through the exercise of the power to waive the regulations which the Commissioners have if they believe that it is in the interests of the Service, eg, where skills or qualifications are otherwise in short supply. The regulations are not subject to any Parliamentary procedures.

2. There are reasons in principle for believing that Northern Ireland should be put on the same footing as Great Britain, and some of those in the majority community who might otherwise be disposed to criticise a relaxation of this kind might not be well placed to do so because that was its effect. The matter is clearly delicate in Northern Ireland: some would be opposed to the freer recruitment of Irish citizens and others would welcome it. Some would think the Irish should offer full reciprocity: they normally require Irish citizenship, which encompasses those born in Northern Ireland but not in Great Britain, and for some

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posts also proficiency in the Irish language, which places at a disadvantage those educated in Protestant schools in the North. The state of the labour market in Northern Ireland is such that it can be argued that competition for jobs should not be increased and it is quite clear that a relaxation is not required in order to obtain enough qualified candidates: there is a surfeit of good people at the moment and the nationality requirements can be waived if necessary. An extended field of recruitment would add somewhat to the Commissioner's costs and there would have to be arrangements to vet those recruited from the Republic.

3. In these circumstances there are reasons for Ministers not volunteering changes in the nationality requirements in isolation. It is possible that the controversy change would cause amongst the majority would not be compensated by gratitude in the minority. Changes might also excite again the controversy over the position of the Irish in Great Britain, leading not only to the claim that it is the Great Britain, not the Northern Irish, position which should be changed but to renewed protest about the Irish vote. In the Anglo-Irish context a change is something which Ministers might wish to offer if we needed to make some concessions, and it might be the basis of seeking to secure something from the Irish whether by way of adjustment to their own requirements or in some other respect. But Ministers may think that it should not be given without some discernible benefit in return. The Irish would no doubt see relaxation as a helpful gesture, just as they might interpret adversely the

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appearance of new regulations in the Spring which made no change in this respect.

4. Ministers will no doubt wish to discuss these matters with officials; but the best approach may be to keep an open mind over the next few weeks in the light of the developing political situation in Northern Ireland and in the context of Anglo-Irish relations.

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