

Community
Legal Service



COVENTRY LAW CENTRE

IMMIGRATION

Information About British Citizenship

This leaflet explains what the Immigration Rules say about British Citizenship.

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British Nationality Act 1981

The British Nationality Act 1981 came into force on 1 January 1983. It replaced all previous nationality laws.

The 1981 Act replaced citizenship of the United Kingdom and Colonies with three separate citizenships:-

1. British citizenship, for people closely connected with the United Kingdom, the Channel Islands and the Isle of Man;
2. British Dependent Territories citizenship, for people connected with the British overseas territories (see Note 3);
3. British Overseas citizenship, for those citizens of the United Kingdom and Colonies without connections with either the United Kingdom or the British overseas territories.

This leaflet explains the position from 1 January 1983 under the 1981 Act, and also explain some changes made by the British Overseas Territories Act 2002.

Some questions and answers about being a British citizen

1. What is British citizenship?

People who are closely connected with the United Kingdom (including the Channel Islands and the Isle of Man) and, in most cases, the British overseas territories (see paragraph 3 below) are British citizens. British citizens have the right to live here permanently and are free to leave and re-enter the United Kingdom at any time.

2. Who became British citizens on 1 January 1983?

People became British citizens (see Note 1) if they were citizens of the United Kingdom and Colonies on 31 December 1982 and had the right of abode, that is, could live in, leave and re-enter the United Kingdom freely under the Immigration Act 1971 (see Note 2). If you were in this position and you held a standard British passport, page 5 of your passport would normally say 'Holder had the right of abode in the United Kingdom' Otherwise you can check your position by reading Note 2.

3. If people were citizens of the United Kingdom and Colonies on 31 December 1982, but did not become British citizens on 1 January 1983, what citizenship do they have?

They will have become either British Dependent Territories citizens (if they had connections with the British overseas territories (see Note 3) if they, their parents or grandparents were born, registered or naturalised there) or British Overseas citizens.

4. What changes have been made affecting British Dependent Territories citizens?

British Dependent Territories citizens connected with St Christopher and Nevis normally lost that citizenship on 19 February 1983 (i.e. when St Christopher and Nevis became an independent Commonwealth country). Those connected with Hong Kong lost that citizenship on 30 June 1997 when sovereignty over Hong Kong returned to the People's Republic of China (but see below).

Under the British Overseas Territories Act 2002, people who continued to have British Dependent Territories citizenship became British overseas territories citizens automatically on 26 February 2002. On 21

May 2002, they became British citizens automatically under the 2002 Act (unless the only territory they were connected with was the Sovereign Base Area of Akrotiri and Dhekelia in Cyprus).

Hong Kong British Dependent Territories citizens

Special rules were introduced in 1986 allowing British Dependent Territories citizens from Hong Kong to acquire the new status of British National (Overseas). Those who did not register as British Nationals (Overseas) and who, on 30 June 1997, had no other nationality or citizenship, became British Overseas citizens on 1 July 1997.

5. Will a child who is born in the United Kingdom from 1 January 1983 be a British citizen?

The child will be a British citizen if one of his or her parents (see Note 4) is a British citizen at the time of the birth. It does not matter how the parent became a British citizen. If neither parent is a British citizen, the child will still be a British citizen. If one of his or her parents are settled here (see Note 5) at the time of the birth. If neither of the child's parents is a British citizen and neither is settled in the United Kingdom, the child will not be a British citizen when he or she is born.

6. Will a child who is born in the United Kingdom from 1 January 1983, be able to become a British citizen if neither parent is a British citizen or settled in the United Kingdom when the child is born?

Yes

- a) If one of the parents becomes a British citizen or becomes settled in the United Kingdom, the child will be entitled to registration as a British citizen *but* must apply before the age of 18.
- b) If the child lives in the United Kingdom for the first 10 years of his or her life, and is not absent for more than 90 days in any one of those years, he or she will be entitled to registration as a British citizen. There is no time limit for applying.
- c) If the child is a British overseas territories citizen (see Note 3), British Overseas citizen, British subject under the 1981 Act, British protected person, or British National (Overseas), he or she will be entitled to registration as a British citizen if he or she lives legally in the United Kingdom for 5 years. He or she must not be absent during those 5 years for more than 450 days and must not be absent during the last 12 months of those 5 years for more than 90 days. There is no time limit for applying.

If the child is not entitled to registration in the circumstances described above, it may still be possible to register the child as a British citizen. Registration, in this case, would be at the Home Secretary's discretion.

7. Will a child who is born on or after 1 January 1983 outside the United Kingdom be a British citizen?

Yes, the child will be a British citizen either if:

- a) he or she is born on or after 21 May 2002 in a qualifying territory (see Note 6) and one of the parents (see Note 4) is a British citizen or settled in the United Kingdom or that territory (the child will be a British citizen otherwise than by descent); or
- b) one of his or her parents is a British citizen otherwise than by descent, for example, by birth, adoption, registration or naturalisation in the United Kingdom (the child will be a British citizen by descent); or
- c) one of his or her parents is a British citizen in Crown service under the government of the United Kingdom or of a qualifying territory (see Note 6) at the time of the birth or in service which has been designated as closely associated with the activities of Her Majesty's Government or the government of a qualifying territory outside the United Kingdom and the qualifying territories, as long as the parent was

recruited for service (of either kind) in the United Kingdom or a qualifying territory (the child will be a British citizen otherwise than by descent); or

- d) one of his or her parents is a British citizen working outside the United Kingdom and the qualifying territories (see Note 6) for a European Community institution at the time of the birth, as long as the parent was recruited in a country which was a member of the European Communities at the time of the recruitment (the child will be a British citizen otherwise than by descent).

Women have been able to pass on citizenship to their children born abroad since 1 January 1983. (This was not the case before 1 January 1983.)

If a child born abroad is not a British citizen to start with, he or she may be able to register as a British citizen. If you have any questions, please contact the Home Office at the address given later in this leaflet or, if you are living overseas, your nearest British Embassy, Consulate of High Commission.

8. What nationality will a child be if he or she is not born a British citizen but has been legally adopted in the United Kingdom or a British overseas territory by a British citizen?

The child will automatically become a British citizen from the date the court makes the adoption order as long as the adoption is made by a court in the United Kingdom or, on or after 21 May 2002, one of the territories listed in Note 6.

9. Is everyone who came to the United Kingdom on a British passport still British?

No. A person who came to the United Kingdom on a British passport and whose country of origin has now become independent is probably a citizen of that country. The person may have lost citizenship of the United Kingdom and Colonies (before 1 January 1983) or British Dependent Territories citizenship (after 1 January 1983). In this case, if he or she wants to become a British citizen, an application will have to be made. There are, however, three exceptions.

People who came here as citizens of the United Kingdom and Colonies from Antigua and Barbuda and from Belize would have remained citizens of the United Kingdom and Colonies if, on the dates those territories became independent, they had the right of abode in the United Kingdom (see Note 2). British Dependent Territories citizens from St Christopher and Nevis will have remained British Dependent Territories citizens after the territory became independent if they were connected by birth, adoption, naturalisation, registration or ancestry with a place which, on Independence Day (19 September 1983), was a British dependent territory (see also paragraph 4 above).

10. How can a person who is not a British citizen become one?

There are two ways of becoming a British citizen.

1. Registration

There are a number of ways a person can register as a British citizen:

British nationals (i.e. British overseas territories citizens, British Overseas citizens, British subjects under the 1981 Act, British Nationals (Overseas) and British protected persons) may apply to register as British citizens if they meet the requirements described in paragraph 6(c) above.

British overseas territories citizens (except by connection only with the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus) can also be registered at the Home Secretary's discretion as long as they have not previously renounced British citizenship.

In certain circumstances, people can also apply to register as British citizens if they are stateless or if they have previously renounced British citizenship.

2. Naturalisation

Foreign nationals may apply for certificates of naturalisation. This also applies to Commonwealth citizens and Irish citizens. Applicants must:

- have lived legally in the United Kingdom for five years (the last year should have been free of any time limit);
- be 18 or over;
- not be of unsound mind;
- be of good character;
- have sufficient knowledge of English, Welsh or Scottish Gaelic (depending on their age and physical and mental condition); and
- stay closely connected with the United Kingdom.

The wife or husband of a British citizen may apply for naturalisation after living in the United Kingdom legally for three years. The applicant's stay must not be subject to any time limit on the date of application; the applicant must be 18 or over and not of unsound mind, but does not have to meet the requirements to have sufficient knowledge of the language and to intend to live in the United Kingdom once naturalised. He or she must be of good character, however.

To meet these residence requirements, you must not be absent from the United Kingdom for more than 450 days over the 5-year period, or for more than 270 days over the 3-year period. In each case, you must not be absent for more than 90 days in the last year of the period.

11. How does the Act affect people who have settled here but do not want to become British citizens?

The Act does not alter the position under the immigration laws of anyone who is lawfully settled here. It does not affect civic rights, such as the right to vote or stand in elections.

12. Does the law still allow people to have more than one nationality?

Yes, the law does let people have more than one nationality. But the law of your original country may not allow you to be a citizen of that country if you are a British citizen. You should check this with the authorities of the country concerned.

Notes

1. British citizens on 1 January 1983

These include people who were registered as citizens of the United Kingdom and Colonies, under section 12(6) of the British Nationality Act 1948, in an independent Commonwealth country by the British High Commissioner. The male ancestor who their application was based on must have been born or naturalised in the United Kingdom and Colonies.

Formerly stateless people who were registered as citizens of the United Kingdom and Colonies under Section 1(1)(a) of the British Nationality (No 2) Act 1964 are not British citizens unless their mothers became British citizens (or would have done but died before they could) or, on 31 December 1982, they had the right of abode in the United Kingdom because they had already lived here for five years.

2. Right of Abode (under the Immigration Act 1971)

The following people had the right of abode (the right to live in the United Kingdom).

- A citizen of the United Kingdom and Colonies who was born, adopted, naturalised or registered in the United Kingdom
- A citizen of the United Kingdom and Colonies who was born to, or legally adopted by, a parent who, at the time of the birth or adoption, was a citizen of the United Kingdom and Colonies because that parent was born, adopted, naturalised or registered in the United Kingdom
- A citizen of the United Kingdom and Colonies who was born to, or legally adopted by, a parent who, at the time of the birth, was a citizen of the United Kingdom and Colonies. That parent must have a parent who was a citizen of the United Kingdom and Colonies by birth, adoption, naturalisation or registration in the United Kingdom
- A citizen of the United Kingdom and Colonies who by 1 January 1983 had been ordinarily resident in the United Kingdom for five years or more without being restricted by the immigration laws to how long he or she could stay
- A Commonwealth citizen who was born to, or legally adopted by, a parent who, at the time of the birth or adoption, was a citizen of the United Kingdom and Colonies by birth in the United Kingdom
- A female Commonwealth citizen who was, or had been, the wife of a man with the right of abode
- A citizen of the United Kingdom and Colonies who was registered in an independent Commonwealth country by the British High Commissioner

The following people do not have the right of abode:

- A woman who was registered under Section 6(2) of the British Nationality Act 1948 on or after 28 October 1971, unless she got married before that date and her husband has the right of abode
- A minor child who was registered under Section 7 of the British Nationality Act 1948 in an independent Commonwealth country by the British High Commissioner on or after 28 October 1971

3. British overseas territories on 1 January 1983

Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Island and Dependencies (see below), Gibraltar, Hong Kong (see below), Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Christopher and Nevis (see below), St Helena and Dependencies, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands.

The Falkland Islands' dependencies (i.e. South Georgia and the South Sandwich Islands) ceased to be dependencies of the Falkland Islands (and British overseas territories) on 3 October 1985. They became British overseas territories again in their own right on 4 December 2001.

Hong Kong ceased to be a British overseas territory with effect from 1 July 1997.

St Christopher and Nevis ceased to be a British overseas territory with effect from 19 September 1983.

4. Parents

Only a legitimate child (born to parents who are married to each other) can get British citizenship from the father. However, if the parents are not married when the child is born in the United Kingdom, but then get married, and the marriage legitimates the child then if the father was a British citizen (or settled) when the child was born, the child would become a British citizen and would be regarded as having been one from birth.

5. Settled

This means ordinarily resident in the United Kingdom without being restricted, under the immigration laws, to how long you can stay here. No one can be regarded as being ordinarily resident if they break the immigration laws. Certain people cannot be regarded as being settled here even though they are exempt from immigration control, for example, certain members of diplomatic or consular missions, visiting forces or international organisations.

Before 2 October 2000, European Economic Area (EEA) nationals exercising Treaty rights under European Community law were regarded as having been settled here. However, from that date, EEA nationals are only regarded as settled if they have been granted indefinite leave to remain in the United Kingdom or have an **unconditional** right of residence under European Community law (for example, retired people or people unable to work because of incapacity).

The family members of EEA nationals exercising Treaty rights may be settled in their own right. If not, their claim to be regarded as settled depends upon whether the EEA national exercising Treaty rights could be regarded as settled.

Since 1 June 2002, Swiss nationals and the family members have enjoyed similar residence rights to EEA nationals. They are not normally regarded as having been free of immigration time restrictions before that date unless they had indefinite leave to enter or remain in the United Kingdom. From 1 June 2002, they are regarded as being free of immigration time restrictions in the circumstances explained in the last two paragraphs.

6. Qualifying territories

The qualifying territories are the current British overseas territories (see Note 3) but do not include the Sovereign Base Areas of Akrotiri and Dhekelia.