

Community
Legal Service



COVENTRY LAW CENTRE

IMMIGRATION

General Information About British Overseas citizenship

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

British Nationality Act 1981

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Hong Kong (British Nationality) Order 1986

1. This leaflet explains how the British Nationality Act 1981 applies to British Overseas citizens. The Act came into force on 1 January 1983. This leaflet also explains how certain people who are connected with Hong Kong could become British Overseas citizens. Paragraphs 2 to 8 deal with becoming a British Overseas citizens, paragraph 9 explains how British Overseas citizens may be registered as British citizens, and paragraphs 10 to 12 contain general information.

People who became British Overseas citizens on 1 January 1983

2. You became a British Overseas citizens on 1 January 1983 if:
 - you were a citizen of the United Kingdom and Colonies on 31 December 1982; and
 - you did not become either a British citizen or a British Dependent Territories citizen (see Note B) on 1 January 1983.

Generally speaking, a person became a British citizen on 1 January 1983 if on 31 December 1982 he or she was a citizen of the United Kingdom and Colonies through his or her own, or a parent's or a grandparent's birth, legal adoption, naturalisation or registration in the United Kingdom (see Note A), or if he or she had lived in the United Kingdom whilst a citizen of the United Kingdom and Colonies for five years at any time before 1 January 1983, and was not subject to restrictions under the immigration laws at the end of that five year period.

Generally speaking, a person became a British Dependent Territories citizen (see Note B) on 1 January 1983 if on 31 December 1982 he or she was a citizen of the United Kingdom and Colonies by reason of his or her own, or a parent's or a grandparent's birth, naturalisation or registration in a place which was a United Kingdom dependent territory on 1 January 1983 (see Note B).

Children born on or after 1 January 1983 to British Overseas citizens

3. British Overseas citizens cannot in general pass on their citizenship to their children who were born on or after 1 January 1983. However, if:
 - you are, or your husband or wife is, a British Overseas citizen (see Note C); and
 - your child is born on or after 1 January 1983 in the United Kingdom (see Note A) or a British overseas territory (see Note B); and
 - your child would otherwise be stateless

your child automatically became a British Overseas citizen when he or she was born.

Also, if:

- You are, or your husband or wife is, a British Overseas citizens (see Note C): and
- Your child is born on or after 1 January 1983 outside the United Kingdom and the British overseas territories; and
- Your child has been stateless from birth

Your child may be entitled to registration as a British Overseas citizen if he or she goes to live in the United Kingdom or a British overseas territory for three years. There are more details about how the Act reduces statelessness in leaflet BN5.

4. If you are a British Overseas citizen, and your child is born in the United Kingdom (see Note A) on or after 1 January 1983 or, on or after 21 May 2002, in either the United Kingdom or a British overseas territory other than the Sovereign Base Areas of Akrotiri and Dhekelia, your child will be a British citizen (but not a British Overseas citizen) if:

- you are, or your husband or wife is, settled (see Note D) in the United Kingdom or, if appropriate, the relevant British overseas territory when your child is born; or
- your husband or wife is a British citizen when your child is born.

Similarly, if you are a British Overseas citizen, and your child is born in a British overseas territory (see Note B) on or after 1 January 1983, your child will be a British overseas territories citizen (but not a British Overseas citizen) if:

- you are, or your husband or wife is, settled (see Note D) in a British overseas territory when your child is born; or
- your husband or wife is a British overseas territories citizen (see Note B) when your child is born.

Registration of children under 18 as British Overseas citizens

5. The Home Secretary can register any child under 18 as a British Overseas citizen but very rarely agrees to registration.
6. If you would like more information about this, you should write to the appropriate address in paragraph 11.

Effects of the Hong Kong (British Nationality) Order 1986

7. A person who was a British Dependent Territories citizen (see Note B) only because he or she was connected to Hong Kong when it was under British rule lost that citizenship automatically on 30 June 1997. However, the Hong Kong (British Nationality) Order 1986 says that if a person had no other nationality and would, as a result, have become stateless, he or she became a British Overseas citizen on 1 July 1997 (Article 6(1)). The 1986 Order also says (Article 6(2)) that a person who was born on or after 1 July 1997, who would otherwise be born stateless, will be a British Overseas citizen if, when the person was born, either of his or her parents was:
 - a British National (Overseas); or
 - a British Overseas citizen under Article 6(1) of the Order.

The Hong Kong (British Nationality) Order 1986 also says that children will be entitled to register as British Overseas citizens if they were born stateless on or after 1 July 1997 and:

- their father or mother was, when the children were born, a British Overseas citizen under Article 6(2) of the Order;
- their grandmother or grandfather was, on 30 June 1997, (or would have been if they had not died) a British Dependent Territories citizen (see Note B) connected with Hong Kong; and
- an application for registration is made within 12 months of the child's birth.

Renunciation of British Overseas citizenship

8. If you are a British Overseas citizen, and you are 18 or over (see Note E), you may renounce (give up) British Overseas citizenship as long as you already have, or are about to get, some other citizenship or nationality.

Registration as a British citizen

9. If you are a British Overseas citizen, you are entitled, on applying, to be registered as a British citizen after you have lived in the United Kingdom for five years (see Note F). You may be absent from the United Kingdom for up to 450 days during this period without losing your entitlement to be registered, but you can only be absent from the United Kingdom for 90 days during the year immediately before you apply. The Home Secretary may accept longer periods of absence in the special circumstances of a particular case. You will normally have to be free of restrictions under the immigration laws throughout the year before you apply.

Allowing certain United Kingdom passport holders to settle in the United Kingdom

10. The British Nationality Act 1981 does not affect the position, under United Kingdom immigration law, of British Overseas citizens whose passports show either that they have the right to come into the United Kingdom again or that their period of stay does not have a time limit on it.

Addresses for general enquiries, leaflets, application forms and applications

You could contact the Coventry Law Centre on our free legal advice line on Tuesdays and Thursdays between 10:00am and 12:00noon on 024 76253168.

The address to which completed applications for citizenship should be sent is:

Home Office
Integrated Casework Directorate (Nationality)
Casework Support Unit
PO Box 12
Liverpool L69 2UX

Notes

- A. In this leaflet, the United Kingdom means England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man.
- B. The United Kingdom's dependent territories on 1 January 1983 were Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands and Dependencies, Gibraltar, Hong Kong (not been a dependent territory since 30 June 1997), Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Christopher and Nevis (not been a dependent territory since 18 September 1983), St Helena and Dependencies, the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, Turks and Caicos Islands and Virgin Islands.

South Georgia and the South Sandwich Islands were the "Dependencies" of the Falkland Islands, but were not dependent territories during the period 3 October 1985-3 December 2001.

Since 26 February 2002, the British dependent territories have been officially known as "British overseas territories" and British Dependent Territories citizens(hip) as "British overseas territories citizens(hip)"

- C. The Act's rules on passing on citizenship to children who were born on or after 1 January 1983 apply equally to men and women, except that men cannot pass on citizenship to illegitimate children.
- D. People are normally regarded as settled in the United Kingdom or a British overseas territory if they are ordinarily resident there without being restricted, under the immigration laws, as to how long they can stay there.
- E. For the purpose of renouncing (giving up) British Overseas citizenship, we consider a person who has been married to be 18 or over.
- F. We do not normally count periods spent in the United Kingdom in breach of the immigration laws towards this residence requirement.

The law covering British Overseas citizenship is the British Nationality Act 1981, the Regulations made under it and the Hong Kong (British Nationality) Order 1986. The information given here is only a brief guide to the law and the Home Secretary's policy. It is not a complete statement of either the law or policy.

Information you give us will be treated in confidence but may be disclosed to other bodies (for example other Government Departments and agencies, local authorities and the police) where it is necessary for immigration or nationality purposes or to enable these bodies to carry out their functions.