



# COVENTRY LAW CENTRE

## IMMIGRATION

### British citizenship – Children born outside the United Kingdom

#### **British Nationality Act 1981**

**This leaflet explains how parents who are British citizens can pass their citizenship on to their children born outside the United Kingdom (see Note A) on or after 1 January 1983.**

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Registered with Charity Commission as Coventry Law Centre: 1087312  
Registered as a limited company in England & Wales: 4149673

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## **General**

2. An important change made by the 1981 Act was that since 1 January 1983, women have been able to pass on British citizenship to their children who were born outside the United Kingdom in the same way as men (see Note B).

3. Another important change was made on 21 May 2002 and affects children who are connected with the British overseas territories. On that date, people who were British overseas territories citizens (formerly known as British Dependent Territories citizens) became British citizens automatically as long as they had that citizenship by connection with a qualifying territory (see Note C). There are other circumstances in which children connected with a qualifying territory are British citizens from birth or can be registered as British citizens.

### ***British citizens otherwise than by descent and British citizens by descent***

4. Every British citizen is either a British citizen otherwise than by descent or a British citizen by descent.

This difference is important because the type of citizenship people have decides the way in which they can pass British citizenship on to their children who were born outside the United Kingdom.

- Generally speaking, a British citizen otherwise than by descent is a British citizen who was born, adopted, naturalised or registered (see Note D) in the United Kingdom (see Note A) or a qualifying territory (see Note C).
- A British citizen by descent could have become such a citizen in a number of ways. The most usual case is likely to be that of a British citizen who is born outside the United Kingdom (see Note A) to a parent who was a British citizen at the time, but not in the kind of service described in paragraph 16. It does not matter whether the birth took place before or after 1 January 1983, as long as a child who was born before that date became a British citizen on that date. (He would previously have been a citizen of the United Kingdom and Colonies). Note E explains which people became British citizens on 1 January 1983.

### ***Children who are born in the United Kingdom or a qualifying territory***

5. Children who are born in the United Kingdom or, on or after 21 May 2002, in the United Kingdom or a qualifying territory (see Note C) will always be British citizens otherwise than by descent if, when the child is born, one of the parents is:

- a British citizen (it does not matter whether the parent is a British citizen by descent or otherwise than by descent); or
- settled in the United Kingdom (see Note F); or
- (if the birth occurred in a qualifying territory on or after 21 May 2002) settled in that territory (see Note F)

6. Children who are born in a British overseas territory (see Note C) will always be British overseas territories citizens otherwise than by descent as long as a parent is a British overseas territories citizen or settled in a British overseas territory (see Note F) when the child is born. If the birth occurred before 21 May 2002, such children will also have become British citizens otherwise than by descent on that date unless:

- they are British overseas territories citizens only by connection with the Sovereign Base Areas of Akrotiri and Dhekelia (in Cyprus); or
- they were already British citizens by descent before 21 May 2002

***Children who are born outside the United Kingdom and qualifying territories to British citizens otherwise than by descent***

1. If you are or your husband or wife is, a British citizen otherwise than by descent, your child born outside the United Kingdom (or the qualifying territories (see Note C) if born on or after 21 May 2002) will automatically be a British citizen when he or she is born. But your child will be a British citizen by descent unless you are, or your husband or wife is, a British citizen in one of the types of service listed in paragraph 16. You do not need to take any official action when your child is born to confirm his or her status, but if you want, for example, to apply for a British passport for your child, you will need to produce certain documents (see paragraph 19).

***Children who are born outside the United Kingdom and qualifying territories to British citizens by descent***

8. If you are, or your husband or wife is, a British citizen by descent, but neither of you is a citizen otherwise than by descent, your child born outside the United Kingdom or, on or after 21 May 2002, outside the United Kingdom and outside the qualifying territories (see Note C) will not be a British citizen when he or she is born (unless you are, or your husband or wife is, a British citizen in one of the types of service listed in paragraph 16). But your child will be entitled to be registered at the Home Office as a British citizen in certain circumstances. These are explained in paragraphs 9 to 11.

***Registering your child as a British citizen***

9. Your child will be entitled to be registered as a British citizen if the requirements in A-D below are met.

***Registration on the grounds of a parent's residence***

***A***

- Your child was born outside the United Kingdom (see Note A) on or after 1 January 1983 and before 21 May 2002; and
- When your child was born you were a British citizen by descent, or your husband or wife was a British citizen by descent; and
- The parent who is a British citizen was born to a person who, at the time of the parent's birth, was a British citizen otherwise than by descent (or would have become a British citizen otherwise than by descent on 1 January 1983 if he or she had been alive); and either
- The same parent has, at any time before your child's birth, lived in the United Kingdom for a continuous period of three years (see Note G); or
- The child was born stateless

***B***

- Your child was born outside the United Kingdom (see Note A) and the qualifying territories (see Note C) on or after 21 May 2002; and
- You were a British citizen by descent, or your husband or wife was a British citizen by descent when your child was born; and
- The parent who is a British citizen was born to a person who, at the time of the parent's birth, was a British citizen otherwise than by descent (or would have become a British citizen otherwise than by descent on 1 January 1983 if he or she had been alive); and either
- The same parent has, at any time before your child's birth, lived in the United Kingdom or the qualifying territories for a continuous period of three years (see Note G); or
- The child was born stateless

### ***Registration on the grounds of the family's residence***

#### **C**

- Your child was born outside the United Kingdom (see Note A) on or after 1 January 1983 and before 21 May 2002; and
- You were a British citizen by descent, or your husband or wife was a British citizen by descent when your child was born; and
- You, your husband or wife, and your child all return to the United Kingdom to live for three years (see Notes G and H); and
- Both parents agree to the child being registered (see Note J)

#### **D**

- Your child was born outside the United Kingdom and the qualifying territories on or after 21 May 2002; and
- You were a British citizen by descent, or your husband or wife was a British citizen by descent when your child was born; and
- You, your husband or wife, and your child all return to the United Kingdom or a qualifying territory to live for three years (see Notes G and H); and
- Both parents agree to the child being registered (see Note J)

10. If you are applying on the basis of the requirements in A or B, you should normally apply within one year of the child's birth (but see Note K). The child will, on registration, be a British citizen by descent. Before you decide whether you want to apply, you should read paragraph 15 below.

11. If you are applying on the basis of the requirements in C or D, you must apply before the child is 18. The child will, on registration, be a British citizen otherwise than by descent.

### ***Children who are born stateless***

12. The Act contains special requirements for children who are born stateless. One of these is explained in paragraph 9A and B. If your child is born stateless, and you would like more information, you should write asking for leaflet BN5, to the appropriate office mentioned in paragraph 20.

### ***Registration at the Home Secretary's discretion***

13. If the child is not entitled to registration in the circumstances described in paragraphs 9-12, you can still apply for the child to be registered as a British citizen at the discretion of the Home Secretary.

14. Unless your child is a British citizen at birth as described in paragraph 5-9 or 16, the child will not be a British citizen until he or she is registered under the arrangements described in paragraphs 9-13 and will not be allowed to have a British citizen passport. You should apply for a travel document for your child to the authorities of the country in which the child was born. A child without a British passport who wants to travel with his or her parents to the United Kingdom, or to join them there, will need an entry clearance. You should apply for entry clearance to the appropriate address in paragraph 20. These procedures may take some time, and you should apply well before the date you want to travel.

### ***Choosing between the registration options described in paragraph 9A or B and 9C or D***

15. If your child is registered under the arrangements described in paragraph 9C or D, the child will be a British citizen otherwise than by descent. He or she will automatically pass on citizenship to his or her children wherever they are born. If your child is registered under the arrangements described in paragraph 9A or B, the child will be a British citizen by descent. He or she will not be able to pass on British citizenship automatically to children who are born outside the United Kingdom and qualifying territories. So, if your child qualifies to be registered under paragraph 9A or B, but you and your family are going to live in the United Kingdom or a qualifying territory (see Note C) soon, you may want to delay applying for your child's registration until the child can be registered under paragraph 9C or D. However, the Home Office may not be able to accept a late application for registration under paragraph 9A or B (see Note K) if the parents cannot return to the United Kingdom for their child to qualify for registration under paragraph 9C or D.

NB. A British citizen by descent cannot be registered as a British citizen otherwise than by descent

### ***Children who are born to parents in Crown and similar types of service***

16. Different rules apply to children born outside the United Kingdom and, on or after 21 May 2002, the qualifying territories (see Note C) to British citizens in Crown service (see Note L), in service designated by the Home Secretary (see Note M), and in the service of a European Community institution. If, when your child is born, you are:

- a British citizen (whether otherwise than by descent or by descent); and
- you are working outside the United Kingdom (or the United Kingdom and qualifying territories (see Note C) if the child was born on or after 21 May 2002) in one of the types of service mentioned above; and

you were recruited to that service either:

- in the United Kingdom; or
- in the United Kingdom or a qualifying territory (see Note C) (if the child was born on or after 21 May 2002); or
- in the European Community (in the case of service with a European Community institution)

then your child will automatically be a British citizen otherwise than by descent at birth, without the need for registration. If you would like further information about these provisions, you should read leaflet BN6. You can get a copy from the appropriate office mentioned in paragraph 20.

### ***Adopted children***

17. If you are a British citizen and you adopt a child in the United Kingdom or, on or after 21 May 2002, in a qualifying territory (see Note C), the child will acquire British citizenship automatically on the date of the adoption order. If you adopt a child in other circumstances, the child will not automatically become a British citizen. However, the Home Secretary may agree to register the child. If you have any questions about registration, please contact one of the addresses in paragraph 20 (that paragraph tells you which address to write to, depending on where you live).

### ***How to apply for registration***

18. If you want to apply for your child to be registered as a British citizen, you can write for an application form. Paragraph 20 tells you where you should write to, depending on where you live. You should send the filled-in application form to the same address, unless you have left the country or territory concerned. When

your application has been approved, we will send you a certificate confirming that your child has been registered as a British citizen. You will have to pay a fee for registering your child. Details of the fee you have to pay, and how to pay it, are details that will be sent with the application form if you write for one.

### ***British passports***

19. If your child has been registered as a British citizen, the certificate of registration will normally be enough evidence for him or her to get a British passport. If the child automatically became a British citizen at birth, under the arrangements described in paragraph 7, you will normally be asked to produce your child's birth certificate, your marriage certificate, and evidence that you are a British citizen otherwise than by descent or that your husband or wife is a British citizen otherwise than by descent. There are full details of the evidence needed in the notes which come with passport application forms. Paragraph 20 tells you where you should send your application, depending on where you live.

### ***Addresses for enquiries, leaflets, application forms and applications***

20. You can contact Coventry Law Centre on our free legal advice line on Tuesdays and Thursdays between 10:00am and 12:00 noon on 024 76253168. If you are in England, Scotland, Wales or Northern Ireland and have any questions about this leaflet, being a British citizen, registering as a British citizen or want to ask for application forms, please contact one of the following addresses:

#### ***Address for general enquiries and to obtain leaflets and application forms:***

Immigration and Nationality Policy Directorate  
3<sup>rd</sup> Floor, India Buildings  
Water Street  
Liverpool L2 0QN

#### ***Address to which completed applications for citizenship should be sent:***

Home Office IND  
Integrated Casework Directorate (Nationality)  
Casework Support Unit  
PO Box 12, 3<sup>rd</sup> Floor  
Reliance House  
Liverpool L69 2UX

Telephone: 0151 237 5200

If you have any questions about British passports, and are in England, Scotland, Wales or Northern Ireland, please contact your regional Passport Office (any main Post Office will give you the address).

If you are in the Channel Islands or the Isle of Man and have any questions about citizenship, British passports, registering as a British citizen, please contact the Lieutenant-Governor.

If you are in a foreign country or the Republic of Ireland, and have any questions about citizenship, British passports, registering as a British citizen or entry clearance, please contact your nearest British Embassy or Consulate.

If you are in a Commonwealth country, and have any questions about citizenship, British passports, registering as a British citizen or entry clearance, please contact the British High Commission.

If you are in a British overseas territory, and have any questions about citizenship, British passports, registering as a British citizen or entry clearance, please contact the Governor.

## **NOTES**

**A.** In this leaflet, the United Kingdom means England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man.

**B.** Women can pass on their British citizenship to illegitimate children, but men cannot.

**C.** The British overseas territories are currently:

- Anguilla
- Bermuda
- British Antarctic Territory
- British Indian Ocean Territory
- Cayman Islands
- Falkland Islands
- Gibraltar
- Montserrat
- Pitcairn
- Henderson
- Ducie and Oeno Islands
- St Helena & Dependencies
- South Georgia & South Sandwich Islands
- The Sovereign Base Areas of Akrotiri & Dhekelia
- Turks and Caicos Islands
- Virgin Islands

The “qualifying territories” are the British overseas territories except for the Sovereign Base Areas of Akrotiri and Dhekelia.

**D.** In some cases, a person who is registered in the United Kingdom will be a British citizen by descent, but most people will be British citizens otherwise than by descent.

**E.** 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 while 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.

A person also 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 by connection with the Falkland Islands and Dependencies (i.e. South Georgia and the South Sandwich Islands).

**F.** 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.

**G.** You are allowed to be absent from the United (or, if the child was born on or after 21 May 2002, the United Kingdom and qualifying territories (see Note C) for up to 270 days during the periods referred to in paragraph 9. In the case of paragraph 9C and D, the child and his or her mother and father may each be absent from the United Kingdom (or, if the child was born on or after 21 May 2002, the United Kingdom and qualifying territories (see Note C)) for up to 270 days during this period.

- H.** If the parents are legally separated or divorced, or one parent died before the application, only one parent needs to have lived in the United Kingdom (or the qualifying territories (see Note C) if the child was born on or after 21 May 2002) with the child for three years. If the child is illegitimate, only the mother has to meet this requirement.
- J.** If the child is illegitimate, the Home Office only need the mother's permission for the child to be made a British citizen.
- K.** In special circumstances, the Home Secretary can accept an application up to six years after the child is born.
- L.** In this leaflet, unless otherwise indicated, "Crown Service" means Crown Service under the United Kingdom Government, the Northern Ireland Government, the Scottish Administration and, on or after 21 May 2002, a government of a qualifying territory (see Note C).
- M.** The Home Secretary has given the following descriptions of service as being designated services:
- Service as a Governor, an official, a judge or a magistrate in a British overseas territory (from 1 January 1983).
  - Crown service (see Note L), except under the government of a qualifying territory (see Note C), where the person is temporarily on secondment overseas (from 1 January 1983).
  - Overseas service by certain civilians who are subject to the provisions of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957, (from 1 January 1983).
  - Service under the North Atlantic Treaty Organisation (NATO) (from 1 January 1983).
  - Service under the Commonwealth War Graves Commission (from 1 January 1983).
  - Service under the British Council, as long as the employee is paid wholly from British Council funds (from 1 January 1983).
  - Service under the British Tourist Authority (from 1 January 1983).
  - Service under the Commonwealth Development Corporation (from 21 December 1984).
  - Service under the Medical Research Council (from 21 December 1984).
  - Service under the Science and Engineering Research Council (from 21 December 1984) or under the Engineering and Physical Sciences Research Council, the Biotechnology and Biological Sciences Research Council or the Particle Physics and Astronomy Research Council (from 1 April 1994).
  - Service under the Natural Environment Research Council (from 21 December 1984).
  - Service under the Agricultural and Food Research Council (from 30 April 1987) or under the Biotechnology and Biological Sciences Research Council (from 1 April 1994).
  - Service on secondment from any of the Research Councils listed at 9 to 12 above (from 30 April 1987).
  - Service under the European Patent Office (from 16 February 1990).
  - Service under the Customs Co-operation Council (from 1 April 1994).
  - Service under the European Conference of Ministers of Transport (from 1 April 1995).
  - Service under the International Energy Agency (from 1 April 1995).
  - Service under the Organisation for Economic Co-operation and Development (from 1 April 1995).
  - Service under, or on secondment from, the Council for the Central Laboratory of the Research Councils (from 1 April 1995).

Item 3 covers civilians who work for the following organisations:

- Australia, New Zealand and Malaya Defence Organisation
- Baghdad Pact Council
- British Red Cross Society
- British Sailor's Society

- Central Treaty Organisation
- Council of Voluntary Welfare Work, which includes:
  - Catholic Women's League
  - Church Army
  - Church of England Soldiers', Sailors' and Airmen's Clubs
  - Church of Scotland Committee on Hut and Canteen Work for HM Forces
  - Methodist Church Forces' Centres
  - Mission to Mediterranean Garrisons
  - Royal Sailors' Rests
  - Salvation Army
  - Sandes' Soldiers' and Airmen's Homes
  - Toc H
  - YMCA
  - YWCA
  - Malcolm Clubs
  - Missions to Seamen
  - Navy, Army and Air Force Institute (NAAFI)
  - Royal Navy Film Corporation
  - Royal Navy Lay Readers' Society
  - Services Sound and Vision Corporation (including British Forces Broadcasting Service)
  - Soldiers' and Airmen's Scripture Readers' Association
  - Soldiers', Sailors' and Airmen's Families Association (SSAFA)
  - South East Asia Collective Defence Treaty Organisation (SEATO)
  - Venerable Order of the Hospital of St John of Jerusalem
  - Women's Royal Voluntary Service (WRVS)

Item 3 also includes the following organisation (but only from 1 January 1983 until 30 September 1988):

- Combined Services Entertainments
- Forces Help Society and Lord Roberts Workshops
- Services Central Book Depot
- St Andrews' Ambulance Association

The law covering British citizenship is in the British Nationality Act 1981 and the Regulations made under it and in the British Overseas Territories Act 2002. 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 the Home Office 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.