

Community
Legal Service



COVENTRY LAW CENTRE

IMMIGRATION

Naturalisation as a British Citizen

This leaflet explains about naturalisation as a British citizen

British Nationality Act 1981

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Although every effort is made to ensure the information in this leaflet is accurate and up to date, it should not be treated as a complete and authoritative statement of the law and does not constitute legal advice - we cannot be held liable for any inaccuracies and their consequences. The information in this leaflet is written for people resident in, or affected by, the laws of United Kingdom only.

The Home Secretary may if he thinks fit naturalise a person who meets certain requirements. These are set out in section 6 of, and Schedule 1 to, the British Nationality Act 1981, and are described below.

1. The person who is applying must meet the requirements that are set out in Part A of this leaflet, unless he or she is married to a British citizen. If the person applying is the husband or wife of a British citizen, he or she only needs to meet the requirements that are set out in Part B of this leaflet.

A. Requirements

2. The person applying must:
 - a. be 18 or over;
 - b. not be of unsound mind;
 - c. be of good character;
 - d. have sufficient knowledge of English, Welsh or Scottish Gaelic (see Note 1);
 - e. intend to have his or her home (or main home if there is more than one) in the United Kingdom. The person applying may, however, live abroad if he or she plans to go into, or continue in Crown service working directly for the government of the United Kingdom (see Note 2), if he or she plans to work with an international organisation which the United Kingdom is a member of, or work for a company or association established in the United Kingdom; and
 - f. meet the residential requirements set out in paragraphs 3 and 4 below; or the requirement described in paragraph 5.
3. The residential requirements are that:
 - a. the person applying was in the United Kingdom (see Note 3) at the beginning of the five year period that ended on the date the application is received;
 - b. in the five year period, he or she was not outside the United Kingdom for more than 450 days (see Note 4);
 - c. in the last 12 months of that five year period, he or she was not outside the United Kingdom for more than 90 days;
 - d. in the last 12 months of that five year period, his or her stay in the United Kingdom was not subject to any time limit under the immigration laws (see Note 5); and
 - e. he or she was not, at any time in that five year period, in the United Kingdom in breach of the immigration laws.

Special circumstances

4. Everyone who applies (unless covered by paragraph 5 below) must be free from any time restriction under the immigration laws when the application is received. They must also meet the first of the requirements described in paragraph 3. But the Home Secretary may make an exception to the other requirements (including the one in Note 4 about time which does not count) if he thinks that there are special circumstances. If you do not meet the requirements, but you believe there are special circumstances in your case, you should explain them when you apply.

Crown Service

5. An alternative to the five year residential requirement is Crown service under the Government of the United Kingdom (see Note 2). There is no fixed period of service because naturalisation will not be granted if you just complete a period of satisfactory service. If someone applies because of Crown

service, he or she should, among other things, have held a responsible post overseas, given outstanding service, and have some close connection with the United Kingdom. If someone applies for naturalisation on the basis of Crown service, he or she must be serving outside the United Kingdom when the application is received.

B. Requirements for a person applying as the husband or wife of a British citizen

6. The person applying must:

- a. be 18 or over;
- b. not be of unsound mind;
- c. be of good character;
- d. be married to a British citizen on the date the application is received; and
- e. either meet the residential requirements set out in paragraph 7 and 8 below, or be married to a British citizen who is working abroad, or is likely soon to be posted abroad, in Crown service under the Government of the United Kingdom (see Note 2) or the government of a qualifying territory (see Note 6) or in service specially designated under section 2(3) of the British Nationality Act 1981, and who was recruited in the UK to that service (see paragraph 9 below).

7. The residential requirements are that:

- a. the person applying was in the United Kingdom (see Note 3) at the beginning of the three-year period that ended on the date the application is received;
- b. on the date the application is received, the applicant's stay in the United Kingdom is not subject to any time limit under the immigration laws (see Note 5);
- c. in the three-year period, he or she was not outside the United Kingdom for more than 270 days (see Note 4);
- d. in the last 12 months of that three-year period, he or she was not outside the United Kingdom for more than 90 days; and
- e. he or she was not, at any time in that three-year period, in the United Kingdom in breach of the immigration laws.

Special Circumstances

8. Everyone who applies (unless they are covered by paragraph 9 below) must meet the first two requirements described in paragraph 7. But the Home Secretary may make an exception to the other requirements (including the one in Note 4 about time which does not count) if he thinks that there are special circumstances. If you do not meet the requirements, but you believe there are special circumstances in your case, you should explain to them when you apply.

9. If the person applying is married to a British citizen who, on the date the application is received, is serving, or is likely soon to be posted, abroad in:

- Crown service under the Government of the United Kingdom (see Note 2) or a qualifying territory (see Note 6); or
- service specially designated under Section 2(3) of the British Nationality Act 1981; and
- he or she was recruited in the United Kingdom

the Home Secretary may make an exception to the requirements set out in paragraph 7a, c, d and e if he thinks that there are special circumstances. If you think that there are special circumstances in your case, you

should explain them when you apply.

C. For general enquiries, leaflets, application forms

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

Minor Children

11. Minor children (under 18) cannot be included in certificates of naturalisation that are granted to their parents. However, they may be considered for registration as British citizens. A person applying for naturalisation should include the names and details of all his or her minor children who are not British citizens and whom he or she wants to have registered. You will normally have to provide permission from both parents.

Fees

12. You have to pay a fee when you apply and must send it with your application. If you write or telephone for the application form and guide, you will also be sent a fees leaflet.

Dealing with the Application

13. The Home Office will send an acknowledgment when your application is received. Enquiries are made into every application and you may be interviewed by the police or another representative. The time it takes to deal with an application varies according to individual circumstances and how many applications are being dealt with at the time.

Dual Nationality

14. People who are naturalised as British citizens may, as a result, lose or risk losing their existing nationality or citizenship. This depends on the law of the country concerned. You should contact the authorities of the country concerned before you apply for naturalisation.

Notes

1. The person applying must have a good enough knowledge of the language to deal with everyday situations. He or she does not have to be able to read or write the language. The Home Secretary may decide that the person does not have to meet this requirement if he or she is old or physically or mentally disabled.
2. "Crown service under the Government of the United Kingdom" includes Crown service under the Northern Ireland Government and under the Scottish Administration.
3. In this leaflet, the United Kingdom means England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man.

4. Periods spent in the United Kingdom:

- a. while you are exempt from immigration control (for example, as a diplomat or as a member of visiting forces); or
- b. in any place of detention (such as a prison) following a conviction or under the powers of the immigration laws (or while you are illegally absent from such a place)

do not count towards the residence requirements.

5. If you are an EEA national who has a **conditional** right of residence in the United Kingdom under European Community (EC) law (such as a worker or business person), you **are not** regarded as free of a time limit under the immigration laws. You need to obtain indefinite leave to remain in the United Kingdom before applying for naturalisation. Unless you are married to a British citizen, you should also have indefinite leave to remain for 12 months before you apply.

If you are an EEA national who has an **unconditional** right of residence under EC law (such as a retired person or someone who is unable to work because of incapacity), you **are** regarded as free of immigration restrictions.

If you are a family member of an EEA national, you may meet the “no time limit” requirement in your own right. If you do not, your position will depend upon whether the EEA has a conditional or unconditional right of residence (even if you are not an EEA national).

Since 1 June 2002, Swiss nationals and the family members have enjoyed similar residence rights to EEA nationals. They are not 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 described above.

6. The “qualifying territories” are Anguilla, Bermuda, British Antarctic Territory, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Helena and Dependencies, South Georgia and the South Sandwich Islands, Turks and Caicos Islands and Virgin Islands.

The law covering naturalisation is in the British Nationality Act 1981 and the Regulations made under it. The information given in this leaflet is only a brief guide to the law and to the Home Secretary’s policy. It is not a complete statement of either the law or policy.