



Home Office

# Registration as a British Overseas Territories Citizen: children

Version 2.0

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# About this guidance

This guidance tells Home Office staff about the registration of minors born both in and outside of the British overseas territories.

The provisions for British overseas territories citizens (BOTC) are set out in:

- [section 15\(3\) of the British Nationality Act 1981](#) which provides registration by entitlement of minors born in a British overseas territory on grounds of parent's status
- [section 15\(4\)](#) which provides registration by entitlement of people born in a British overseas territory on grounds of residence
- [section 17\(2\)](#) which provides registration by entitlement of minors born outside a British overseas territory to British overseas territories citizens by descent
- [section 17\(5\)](#) which provides registration by entitlement of minors born outside the British overseas territories to British overseas territories citizens on grounds of residence
- [section 17\(1\)](#) which is a discretionary provision for registration as a minor

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Nationality policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **28 June 2022**

## Changes from last version of this guidance

Updated to reflect changes to 17(2) applications. Any mention that the applicant would need to have had their birth registered within 12 months of their birth has been removed. The section on discretion has also been removed as applications made after this 12 month period will no longer be considered late.

### Related content

[Contents](#)

# Considering applications

This section tells you how to consider an application made by, or on behalf of, a child for registration as a British overseas territories citizen (BOTC).

You must not assume that because an application has been made the minor needs to be registered. They may already be a BOTC without the parents realising it, in which case there is no need to register. Before considering registration you must check whether the child is already a BOTC. See: Automatic acquisition as a BOTC.

When you examine the application you must consider, in the following order of priority, whether:

- the minor has a claim to BOTC
- the minor has entitlement to registration – through birth in or outside a British overseas territory
- the minor meets the normal criteria for registration at discretion
- the case is exceptionally compelling and compassionate

If a minor has an automatic claim to BOTC you must write to the applicant and explain that registration is not necessary. See automatic acquisition as a BOTC for the appropriate procedure, and refund any fee in full.

## Checking for possible entitlement to registration

The British Nationality Act 1981 contains a number of provisions which give minors in certain circumstances an entitlement to registration as a BOTC:

- [section 15\(3\)](#) - British overseas territory born minors whose parent is a British overseas territories citizen or settled in a British overseas territory
- [section 15\(4\)](#) - British overseas born minors who have lived in a British overseas territory for the first 10 years of their life
- [section 17\(2\)](#) - born outside a British overseas territory to BOTCs by descent
- [section 17\(5\)](#) - born outside a British overseas territory to BOTCs on grounds of residence
- [schedule 2 paragraphs 3 and 4](#) - stateless minors (see registration as a BOTC: otherwise stateless)

Once you have established that a minor applicant is not already a BOTC, you must consider whether an entitlement to registration exists under any of the above provisions.

It is important to make sure that a minor is registered under the appropriate provision. A minor with an entitlement should be registered under that entitlement, and not by use of discretion under [section 17\(1\)](#). This can also affect future generations because in some cases registration under section 17(1) would give British citizenship by descent, whereas registration under an entitlement provision

could give British overseas territories citizenship otherwise than by descent. See: BOTC 'by descent' and 'otherwise than by descent'

## Evidence to be supplied

To guard against the possibility of fraud, you should expect to see evidence of identity over and above that required to establish an entitlement to registration. You must not accept a birth certificate as evidence of identity. A birth certificate is the evidence of an event not the individual's identity.

You must take into account any evidence already on the file. If documents have been seen and noted in the past there is no need to ask to see them again. If the parents' marriage or a parent and child relationship has been accepted as valid by an entry clearance officer, Border Force officer, Home Office official or any tribunal or court there is no need to ask for further evidence unless there is reason to doubt the previous decision. In some situations a subsisting relationship is accepted for immigration purposes, but for nationality purposes a valid marriage is needed.

## The law in relation to section 15(3)

A person is entitled to registration under [section 15\(3\) of the British Nationality Act 1981](#) if:

- they were born in a British overseas territory on or after 1 January 1983
- they are not a BOTC at birth, because at the time, neither parent was a BOTC nor settled in a British overseas territory
- while the person is a minor, either parent becomes a BOTC or becomes settled in a British overseas territory
- the person is still a minor on the date of the application
- in the case of a person aged 10 or over on the date of application the Secretary of State, or governor acting on their behalf, is satisfied that the person is of good character

Registration under [section 15\(3\)](#) gives British overseas territories citizenship otherwise than by descent.

## Documentary evidence required for section 15(3)

Applications should be supported by the following evidence:

- a British overseas territories birth certificate showing parents' details
- evidence of the parent's British overseas territories citizenship:
  - passport describing the holder as a British dependent territories citizen or a BOTC
  - certificate of registration or naturalisation describing the holder as a British dependent territories citizen or a BOTC
  - certificate of registration or naturalisation issued in a British overseas territory describing the holder as a citizen of the UK and Colonies

Information about what constitutes evidence of a parent's settled status in a British overseas territory should be available from the authorities of the territory concerned.

- if the applicant is born before 1 July 2006 and the application is based upon the father having become a BOTC, or settled in a British overseas territory the parents' marriage certificate is required.
- if the applicant is born on or after 1 July 2006 and the application is based on the father having become a BOTC or settled in a British overseas territory evidence that the father comes within the definition of parent

It is the applicant's responsibility to provide the required documentation. This is stated in the guidance notes that support the application form. In cases where the applicant has failed to provide the required documentation, you must write to the applicant to request the documents, allowing 14 days for the applicant to provide a response.

If after 14 days the applicant has failed to provide the evidence required to support their application, you must refuse the application, and inform the applicant that their application has been decided with the evidence already supplied, and that they have failed to meet the requirements.

## The law in relation to section 15(4)

Adults or minors are entitled to register under [section 15\(4\) of the British Nationality Act 1981](#) if they:

- were born in a British overseas territory on or after 1 January 1983
- were not BOTCs at birth, because at the time neither parent was a BOTC nor settled in a British overseas territory
- are aged 10 years or over on the date of application
- have lived in the territory of their birth for the first 10 years of their life
- during that 10 year period, have not been out of that territory for more than 90 days in any one of those years

There is discretion under [section 15\(7\)](#) to allow absences from the British overseas territory amounting to no more than 90 days in any of the first 10 years of the applicant's life.

Registration under [section 15\(4\)](#) gives British overseas territories citizenship otherwise than by descent.

## Documentary evidence required for section 15(4)

Applications should be supported by the following evidence:

- the person's British overseas territories birth certificate showing parents' details
- evidence of residence to cover the first 10 years of the applicant's life

- aged up to 5 years:
  - passport or travel document
  - medical records
  - vaccination records
  - doctors letters
  - letters from child's nursery
- aged 5 to 10 years:
  - letters from the child's school confirming attendance
  - passport or travel document for the full 10 year period to confirm absences for the period

It is the applicant's responsibility to provide the required documentation. This is stated in the guidance notes that support the application form. In cases where the applicant has failed to provide the required documentation, you should normally write to the applicant to request the documents, allowing 14 days for the applicant to provide a response. You do not need to do this where it is clear from the information that the child does not meet the requirements.

If after 14 days the applicant has failed to provide the evidence required to support their application, you must refuse the application, and inform the applicant that their application has been decided with the evidence already supplied, and that they have failed to meet the requirements.

## The law in relation to section 17(5)

Minors are entitled to registration as BOTCs under [section 17\(5\) of the British Nationality Act](#) if:

- they were born outside the British overseas territories on or after 1 January 1983
- at the time of their birth, they had a parent who was a BOTC by descent
- the application is made while they are minors
- if aged 10 years or over on the date of the application, the applicant is of good character, see good character requirements
- the minor, and both parents were in the same British overseas territory at the beginning of the 3 year period ending with the date of the application
- neither the minor nor their parents were absent from the territory for more than 270 days in that 3 year period
- the consent of both parents is given to the application

If the minor was born before 1 July 2006 to unmarried parents, all references above are references to the mother only. If the minor was born to unmarried parents on or after 1 July 2006, all references to a parent or parents are references to a mother or father, if he satisfies the definition of 'father'.

The residence requirements only need to be met by the minor and one of their parents if:

- the minors' father or mother died on or before the date of application

- the parents' marriage or civil partnership had ended in divorce or annulment on or before the date of the application
- the parents were legally separated on the date of the application

If either of the minor's parents died on or before the date of application, only the consent of the surviving parent is required.

There is no discretion to accept a longer period of absence than 270 days in the 3 years before the date of the application.

Registration under [section 17\(5\)](#) gives British overseas territories citizenship otherwise than by descent. It is important to ensure that a minor with this entitlement is registered under this section. Registration under [sections 17\(1\) and 17\(2\)](#) would, instead, give British overseas territories citizenship by descent. See: BOTC by descent and otherwise than by descent.

A minor who satisfies the requirements for registration as a BOTC under [section 17\(5\)](#), and was born on or after 21 May 2002 may also be eligible for registration as British citizen under [section 3\(5\) of the British Nationality Act 1981](#). See: Registration as British citizen: children.

## Documentary evidence required for section 17(5)

Applications should be supported by the following evidence:

- the minor's birth certificate showing parents' details
- the relevant birth, marriage, death, adoption, registration or naturalisation certificates to establish that:
  - the relevant parent was a British overseas territories citizen by descent at the time of the minors birth
  - at the time of the relevant parents birth the child's grandparent was a British overseas territories citizen otherwise than by descent
  - would but for their death have become such a citizen on 1 January 1983
- if the parent is the father, and the minor is born before 1 July 2006, evidence that he is married to the child's mother (marriage certificate)
- if the parent is the father, and the minor is born on or after 1 July 2006, evidence that he comes within the definition of 'parent'
- if the parents have divorced, separated, or one of the parents had died, either:
  - the father's or mother's death certificate
  - the parent's divorce certificate, decree of nullity, evidence of dissolution of a civil partnership or decree of judicial separation

Passports or other documents to establish:

- that the minor has been resident in the relevant territory for 3 years immediately before the date of the application
- that the parents were resident
- that the minor and both of the parents were not absent from the relevant territory for more than 270 days in that 3 year period



## Consent to the application

[Section 17\(5\) of the British Nationality Act 1981](#) is the only provision relating to British overseas territories citizenship in which parental consent is a statutory requirement.

There is no discretion to waive this requirement. This means that you cannot register a child under [section 17\(5\)](#) unless both parents or one parent as set out in the [previous examples](#) have given their consent to the child's registration, even if all other requirements are met. There is no exception to this.

The consent of the parents has to be given in writing and signed. If only one parent has given consent you must request the consent of the other parent.

It is the applicant's responsibility to provide the required documentation. This is stated in the guidance notes that support the application form. In cases where the applicant has failed to provide the required documentation, you must write to the applicant to request the documents, allowing 14 days for the applicant to provide a response.

If after 14 days the applicant has failed to provide the evidence required to support their application, you must refuse the application and inform the applicant that their application has been decided with the evidence already supplied, and that they have failed to meet the requirements.

## Checking for entitlement under section 17(5)

Where the family is in a British overseas territory, the application should be considered depending on the circumstances of the family. If it is clear from the evidence supplied that the minor and parents (or relevant parent) has been living there for at least 3 years immediately before the date of application, the application should be considered under [section 17\(5\)](#). If all requirements are met the application should be granted under that provision.

If at the date of consideration the family has not completed 3 years residence, the parents should be advised of the advantages of [section 17\(5\)](#) and asked to confirm whether they wish either to proceed under [section 17\(2\)](#) or withdraw the application in favour of a future application under section 17(5).

## The law in relation to section 17(2)

Minors are entitled to registration as BOTCs under [section 17\(2\) of the British Nationality Act 1981](#) if:

- they were born outside the British overseas territories on or after 1 January 1983
- either their mother or father was a British overseas territories citizen by descent at the time of the minor's birth

- the mother or father of the parent in question (the child's grandparent) became or but for their death would have become a British overseas territories citizen otherwise than by descent on 1 January 1983
- 
- the parent in question:
  - had, at any time before the minor's birth, lived in a British overseas territory for a continuous period of 3 years
  - was in the territory at the beginning of that 3 year period
  - was not absent from that territory for more than 270 days in that 3 year period

The residence requirements for the parent in question do not apply in the case of a child born stateless.

The permitted absence of 270 days can be taken at any time during the 3 year period before the child's birth. This means that the parent in question may leave the relevant territory up to 270 days before the end of the 3 year period, and still meet the requirement, if they have no other absences during that period.

There is no discretion to accept a period of absence longer than 270 days.

Registration under [section 17\(2\)](#) gives British overseas territories citizenship by descent. See: British overseas territories citizenship 'by descent' and 'otherwise than by descent'.

## Documentary evidence required for section 17(2)

Applications must be supported by the following evidence:

- the minor's birth certificate showing parents' details
- the relevant birth, marriage, adoption, registration or naturalisation certificates to establish that:
  - the relevant parent was a British overseas territories citizen by descent at the time of the minor's birth
  - at the time of the relevant parent's birth, the child's grandparent was a British overseas territories citizen by descent
  - would but for their death have become a British overseas territories citizen on 1 January 1983
- if the parent in question is the father and the minor is born before 1 July 2006 evidence that he is married to the child's mother
- if the parent in question is the father and the minor is born on or after 1 July 2006, evidence that he comes within the definition of 'parent'
- if the minor was not born stateless passports and other documents to establish:
  - the parent in question's 3 year residence in a British overseas territory prior to the minor's birth
  - the parent in question was not absent from that territory for more than 270 days in the 3 year period
- if the child was born stateless and the parent did not meet the residence requirements:

- a letter from the authorities of the country of the child's birth confirming they did not acquire that country's nationality at birth
- if the other parent is neither a BOTC or a national of the child's country of birth, a letter from the authorities of the country of which the other parent is a citizen confirming that the minor did not acquire that country's nationality at birth

It is the applicant's responsibility to provide the required documentation. This is stated in the guidance notes that support the application form. In cases where the applicant has failed to provide the required documentation, you must write to the applicant to request the documents, allowing 14 days for the applicant to provide a response.

If after 14 days the applicant has failed to provide the evidence required to support their application, you must refuse the application and inform the applicant that their application has been decided with the evidence already supplied, and that they have failed to meet the requirements.

## Checking the application

As a result of amendments made to the [British Nationality Act 1981](#) by the [British Overseas Territories Act 2002](#) a minor who is born after 21 May 2002 may have a separate claim or entitlement to registration as a British citizen.

## Checking for entitlement under paragraph 4 schedule 2

If the minor, but not the parents has lived in a British overseas territory for 3 years immediately before the application, the minor may be entitled to registration under [paragraph 4 of schedule 2 of the British Nationality Act 1981](#) which gives British overseas territories citizenship otherwise than by descent.

## Checking for entitlement to registration as a British citizen

If a minor was born outside the qualifying territories on or after 21 May 2002, there may be a separate entitlement, to registration as a British citizen under [section 3\(2\) or section 3\(5\) of the British Nationality Act 1981](#).

## No immediate entitlement

If the minor does not have an immediate entitlement under [sections 17\(2\), 17\(5\)](#) or [paragraph 4 of schedule 2 of the British Nationality Act 1981](#), and does not want to wait for a possible entitlement under [section 17\(5\)](#) the application should be considered under the discretionary provision of [section 17\(1\)](#).

## Consent to the application

As the minor has an entitlement to be registered as a BOTC if the requirements are met the absence of parental consent is not a reason for refusal. There is no legal

requirement for the parent to consent to the application. However, you must note any information provided about consent.

## The law in relation to section 17(1)

People may be registered under [section 17\(1\) of the British Nationality Act 1981](#) if:

- the applicant is under 18 years at the date of the application
- aged 10 years or over on the date of application the applicant meets the good character requirements
- the governor thinks fit to register them

These are the only statutory requirements. Guidance sets out how you must usually use discretion under the law.

It is important to remember that the guidance does not amount to hard and fast rules. It will enable the majority of cases to be dealt with but because the law gives complete discretion, you must consider each case on its merits. All the relevant factors must be taken into account, together with any representations made to us. If you do not the governor's office will be open to criticism and possible legal challenge for failing to consider exercising the Home Secretary's discretion reasonably.

It is possible to register a minor under circumstances that would normally lead to the refusal of an application if this is justified in the particular circumstances of any case.

Equally if there is good reason to do so, it is possible to refuse to register a minor under circumstances that would usually lead to the grant of an application, in particular, the governor or Home Secretary may refuse to grant a certificate where it would not be in the public interest to grant citizenship. This could be for reasons relating to their actions, behaviour, personal circumstances or associations (including family relationships).

For example citizenship may be refused where:

- granting the application could have an adverse impact on international relations
- a decision to grant would be so perverse as to undermine confidence in the immigration and nationality system

In particular, the applicant's associations, including family relationships with those who have been or who are engaged in terrorism, extremist behaviour or who have raised security concerns, will normally warrant a refusal of citizenship. You must give due regard to whether an association is current and/ or whether family ties have been severed.

Registration under [section 17\(1\)](#) will give British overseas territories citizenship by descent if:

- the father or mother was a BOTC at the time of the child's birth

In all other cases registration gives British overseas territories citizenship otherwise than by descent. See: British overseas territories citizenship by descent or otherwise than by descent.

For the purposes of whether the child is a BOTC by descent:

- the father or mother does not include the adoptive father or mother
- father includes the father of the child whose parents were not married if:
  - the child was born on or after 1 July 2006
  - the mother was not married to another man at the time of the birth
  - the natural father satisfies the prescribed requirements as to proof of paternity

Children registered under [section 17\(1\)](#) will therefore be British overseas territories citizens otherwise than by descent if they were adopted by British overseas territories citizens.

It is not always possible to tell by looking at an application what section of the act is applicable. A number of applications for minors are made on the same form and parents may not be sure under what section they are applying. Before considering applying discretion under [section 17\(1\)](#) you must give consideration to whether the minor has entitlement to registration under another section.

You must consider an application under [section 17\(1\)](#) in accordance with the guidance for [section 3\(1\)](#) for applications in the UK.

When deciding an application under [section 17\(1\)](#) the minor's circumstances must be considered with allowance for any circumstances unique to a British overseas territory. The normal expectation is that the criteria which should be met are similar to those for registration as a British citizen under [section 3\(1\)](#). The requirements are set out in full in registration as British citizen: children but references to the UK should be read as references to a British overseas territory, and British citizenship should be read as British overseas territories citizenship.

Where the unique circumstances of a territory suggest it might be appropriate to register at the governor's discretion, outside of that guidance you can contact policy for advice. The normal expectation is that applications will be decided consistently in all territories and the UK to use the Home Secretary's discretion fairly.

## **Related content**

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