



Home Office

# British overseas citizens

Version 2.0

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# About this guidance

This guidance tells Nationality caseworkers about British overseas citizens.

## 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 **21 July 2023**

## Changes from last version of this guidance

Updated to reflect changes made by the Illegal Migration Act 2023.

### Related content

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# What is a British overseas citizen?

This page tells you about the background to British overseas citizenship.

Before 1983, British nationals who had a connection with the UK or a British colony held the status of citizen of the UK and Colonies. On 1 January 1983, when the [British Nationality Act 1981](#) came into force, citizenship of the UK and Colonies was replaced by British citizenship for those connected with the UK, and British dependent territories citizenship for those connected with a place that remained a British dependent territory (now renamed British overseas territories).

In most cases, citizens of the UK and Colonies who had that status by virtue of a connection with a former colony lost it automatically when the colony attained independence as a Commonwealth country. But those who retained that citizenship, but did not become either a British citizen or a British dependent territories citizen on 1 January 1983 became British overseas citizens.

Where an apparent claim or entitlement derives from a personal or ancestral connection with St Christopher and Nevis, it is necessary to consider the effects of [The Saint Christopher and Nevis Modification of Enactments Order 1983](#). Where an apparent claim or entitlement derives from such a connection with Hong Kong, it is necessary to consider the effects of [The Hong Kong \(British Nationality\) Order 1986](#) and [The Hong Kong \(British Nationality\) \(Amendment\) Order 1993](#). Where an apparent claim or entitlement derives from a personal or ancestral connection with the British Indian Ocean Territory, it is necessary to consider the effects of the [British Overseas Territories Act 2002](#).

## Rights of a British overseas citizen

British overseas citizens are subject to UK immigration control, but are eligible for British passports and other consular services.

British overseas citizenship is not transmissible, except in exceptional cases or where the individual would otherwise be stateless.

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# Automatic acquisition on 1 January 1983

This page tells you who automatically acquired British overseas citizenship on 1 January 1983.

[Section 26 of the British Nationality Act 1981](#) explains which people born before 1 January 1983 acquired British overseas citizenship automatically on that date.

Under section 26, a person automatically became a British overseas citizen on 1 January 1983 if, immediately before that date, they:

- were a citizen of the UK and Colonies
- did not on that date become either:
  - a British citizen under [section 11 of the British Nationality Act 1981](#) or [section 1\(1\) of the British Nationality \(Falkland Islands\) Act 1983](#)
  - a British Dependent Territories citizen under [section 23 of the British Nationality Act 1981](#)

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# Establishing claims to British overseas citizenship (BOC)

This page tells you how to establish that an individual has a claim to British overseas citizenship.

When citizenship of the UK and Colonies was derived from a connection with a former British colony, you must take particular care to establish that the person concerned retained that status when the territory in question gained its independence.

If the person concerned was a citizen of the UK and Colonies you must establish whether they became a British overseas citizen on 1 January 1983. If not they may have become either a British citizen or a British dependent territories citizen. If this is the case you must advise them accordingly.

If the person became a British dependent territories citizen you must check whether the person also became a British citizen either on 1 January 1983 by connection with the Falkland Islands, or on 21 May 2002 by connection with a qualifying territory.

## Evidence to establish a claim

The following documents may be used to demonstrate that a person born before 1 January 1983 is a British overseas citizen:

- a passport, issued on or after 1 January 1983, describing the holder as a British overseas citizen or a passport, issued before 1 January 1983, describing the holder as a citizen of the UK and Colonies
- the relevant documents related to the person's, their parents', grandparents', spouse's birth, adoption, marriage, death, registration or naturalisation which establish that the person did not, on 1 January 1983, become either or both a British citizen or a British dependent territories citizen

You must also take into account any evidence already held by the Home Office. In the absence of any of the documents listed above you may consider secondary forms of evidence, providing that these can be verified and demonstrate the relevant requirements. If a relevant relationship has been established previously you would not normally need to request evidence of this again, unless there are reasons to doubt the authenticity of the evidence used.

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# Automatic acquisition by people otherwise stateless

This page tells you about claims to British overseas citizenship from people who would otherwise be stateless.

The form of British nationality acquired under [paragraphs 1 and 2 of schedule 2 to the British Nationality Act 1981](#) is the same as that of the parent or parents. If, between them, the parents hold more than one form of British nationality, then both will be acquired, except for British subject status. A person cannot become a British subject under [paragraphs 1 and 2 of schedule 2](#) if they acquire another form of British nationality. Where one of the parents holds another form of British nationality you must refer to the relevant guidance.

## Paragraph 1 of schedule 2

Under [paragraph 1 of schedule 2 of the British Nationality Act 1981](#) a person born in the UK on or after 1 January 1983, who would otherwise have been born stateless, will be a British overseas citizen if at the time of their birth either or both of their parents was a British overseas citizen.

## Paragraph 2 of schedule 2

Under [paragraph 2 of schedule 2 of the British Nationality Act 1981](#) a person born in a British overseas territory on or after 1 January 1983, who would otherwise have been born stateless, will be a British overseas citizen if at the time of their birth either or both of their parents was a British overseas citizen.

## The Hong Kong (British Nationality) Order 1986

Under [article 6\(1\) of The Hong Kong \(British Nationality\) Order 1986](#), a person who, by virtue of article 3, ceased, on 1 July 1997, to be a British dependent territories citizen by connection with Hong Kong became a British overseas citizen on that date if they would then otherwise have been stateless.

Under [article 6\(2\)](#), a person born on or after 1 July 1997, who would otherwise have been born stateless, will be a British overseas citizen if, at the time of the birth, either of the parents was:

- a British National (Overseas)
- a British overseas citizen under [article 6\(1\)](#)

## Evidence required to establish a claim

### Persons born in the UK

A person born in the UK on or after 1 January 1983 may be regarded as a British overseas citizen on production of either:

- a passport describing the holder as a British overseas citizen
- a UK birth certificate showing parents' details and:
  - evidence that at the time of the birth a parent was a British overseas citizen

If either or both of the parents are a citizen of another country, it will be necessary for the applicant to provide a statement from the authorities of the country concerned confirming that the person did not at birth become a citizen of that country.

## People born in a British overseas territory

A person born in a British overseas territory on or after 1 January 1983 may be regarded as a British overseas citizen on production of either:

- a passport describing the holder as a British overseas citizen
- a British overseas territories birth certificate showing parents' details and:
  - evidence that at the time of birth a parent was a British overseas citizen

If either or both of the parents are a citizen of another country, it will be necessary for the applicant to provide a statement from the authorities of the country concerned confirming that the person did not at birth become a citizen of that country.

## Evidence of a parent's British overseas citizenship

In order to establish a parent's British overseas citizenship you must see one or more of the following documents:

- a passport describing the holder as a British overseas citizen
- a certificate of registration describing the holder as a British overseas citizen

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# Registration of minors as a British overseas citizen by discretion

A child may be registered as a British overseas citizen under [section 27\(1\) of the British Nationality Act 1981](#) if:

- the application is made before their 18th birthday
- they are of good character if over the age of 10
- the Secretary of State thinks fit to register them

## Evidence required

Applications should be supported by evidence as follows:

- the minor's birth certificate showing parents' details
- the relevant passports, birth, marriage, death, adoption, registration, naturalisation certificates and other relevant documents to establish:
  - the child's current nationality status
  - the parents' current nationality status
  - the relationship of the child to the parents
  - (if the child is adopted) full details of the adoption
  - any connections either or both the child or the parents have with the UK

## Criteria for exercise of discretion

You should normally agree to register if:

- at least one parent is a British overseas citizen
- the child has no nationality or citizenship, and cannot acquire one
- the child is facing genuine difficulties through lack of a passport, such as inability to benefit from state facilities, such as health care and education
- the family's continued stay in the country in which they live is at risk to the point of deportation (regardless of whether deportation proceedings have actually started), and there is no country other than the UK where the family could go if they were deported
- (in the case of a child aged 10 or over on the date of application), the Secretary of State is satisfied that the applicant is of good character

Applications not meeting these criteria should normally be refused unless there are other compelling reasons for registration, such as links with the UK. Where one parent holds citizenship of another country, you should satisfy yourself that the child could not obtain the citizenship of that country.

The Home Secretary may, in particular, refuse to grant a certificate where the applicant meets the statutory requirements but it would not be in the public interest to

grant citizenship. This could be for reasons relating to their actions, behaviour, personal circumstances and/ or associations (including family relationships).

For example, citizenship may be refused where granting the application could:

- have an adverse impact on international relations
- mean that a decision to grant would be so perverse as to undermine confidence in the immigration and nationality system
- mean that a refusal could act as a deterrent to others against behaviour which is not conducive to the public good

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

## Brothers and sisters of children already registered

You may be asked to register the brothers and sisters of children who were registered in error under [section 27\(1\) of the British Nationality Act 1981](#) even though they did not meet the criteria.

It would be difficult to explain a refusal in such cases if there had been no apparent change in the children's circumstances. You should normally agree to register in such cases if:

- the circumstances of the family remain the same
- there are no other grounds which suggest that registration would be inappropriate

## Parental consent

Both parents should consent to a minor's registration, irrespective of where the child or the parents are living, or whether the child is natural or adopted. While it is not a legal requirement for applications under [section 27\(1\) of the British Nationality Act 1981](#), it is reasonable that the views of both parents should be considered as it is consistent with the assumptions which now underlie much of our family law. Where there is a conflict between the parents, the courts will put the welfare of the child first. This may be relevant in cases where a parent objects to registration.

Full guidance on parental consent can be found in the Registration as British citizen: children guidance.

## The citizenship ban

The Illegal Migration Act 2023 introduced a "citizenship ban" which will apply to applications under section 27(1).

The ban will apply where the applicant:

- required leave to enter the United Kingdom, but entered the United Kingdom:
  - without leave to enter (or with leave to enter that was obtained by deception)
  - in breach of a deportation order
  - without a valid entry clearance if it was required; or without a valid electronic travel authorisation if one was required
- entered or arrived on or after 7 March 2023
- did not come directly from a country in which their life and liberty were threatened by reason of their race, religion, nationality, membership of a particular social group or political opinion

They also will not qualify if they entered Jersey, Guernsey or the Isle of Man, or an overseas territory, in the same way.

There is an exemption to the citizenship ban where treating a person as ineligible for citizenship would breach the United Kingdom's obligations under the Human Rights Convention. This means that we will need to consider the application, although not necessarily grant.

It is unlikely that you will see any applications where this applies for some time. However, if you do come across such an application, you must refer it to a senior caseworker for advice.

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# Registration of people who would otherwise be stateless

This page tells you about applications to register as a British overseas citizen by people who would otherwise be stateless.

## British Nationality Act 1981: schedule 2 paragraph 4

An individual can register as a British overseas citizen if:

- they were born on or after 1 January 1983
- they were born outside of the UK and the British overseas territories
- they were born stateless
- they have remained stateless
- at the time of their birth, their mother or father was a British overseas citizen
- they were in the UK or a British overseas territory at the beginning of the period of 3 years ending with the date of application
- they were not absent from both the UK and the British overseas territories for more than 270 days in that 3 year period

An individual may qualify for more than one type of British nationality, depending on their parents nationality. For example:

- a person whose mother, or father, or both, was a British overseas citizen only will be entitled to registration as a British overseas citizen only
- a person with a British overseas citizen father, and a mother who is both a British overseas citizen and a British citizen, will be entitled to registration as a British overseas citizen and as a British citizen
- a person with a British overseas citizen father, and a mother who is both a British overseas territories citizen and a British citizen, will be entitled to registration as a British citizen, a British overseas territories citizen and a British overseas citizen

## Excess absences

[Paragraph 6 of schedule 2 of the British Nationality Act 1981](#) gives discretion to allow absences of more than 270 days if the application is made under paragraph 4 of schedule 2.

You should normally waive excess absences if:

- they are the result of circumstances beyond the person's control, such as, serious illness or accident which prevented the person from returning from a visit to a country outside of the UK or the British overseas territories
- they amount to no more than 30 days

- refusal would seriously disadvantage the person, above and beyond being stateless

You should not normally waive excess absences simply because:

- the person or their parents were unaware of the requirements
- the absences were entirely voluntary
- a refusal would cause inconvenience, such as difficulty travelling, rather than serious disadvantage

## **British Nationality Act 1981: schedule 2 paragraph 5**

An individual is entitled to register under [schedule 2, paragraph 5 of the British Nationality Act 1981](#) if they:

- were born before 1 January 1983
- were born stateless
- have remained stateless and either:
  - their mother was a citizen of the UK and Colonies at the time of birth
  - they were born in a place which is, at the date of application, within the UK or a British overseas territory
  - they otherwise meet the requirements of parentage or residence and parentage set out in Schedule to the British Nationality (No.2) Act 1964 as amended by section 4 of the British Nationality Act 1965

Individuals are eligible to register as British overseas citizen under these provision if they would not have become either a British citizen or a British dependent territories.

## **Article 6(3) to 6(5), Hong Kong (British Nationality) Order 1986**

An individual is entitled to register as a British overseas citizen under these provisions if:

- they were born on or after 1 July 1997
- they were born stateless
- they were born outside of the British overseas territories
- their father or mother (the parent in question) was at the time of their birth, a British overseas citizen under article 6(2) of [The Hong Kong \(British Nationality\) Order 1986](#)
- immediately before 1 July 1997, the father or mother of the parent in question was, or would, but for death, have been a British dependent territories citizen otherwise than by descent by connection with Hong Kong
- the application was made within 12 months of the person's birth

There is discretion to allow an application to be made later than the normal time limit of 12 months.

## Late applications

Article 6(5) of [The Hong Kong \(British Nationality\) Order 1986](#) gives discretion to allow an application to be made within 6 years of the minor's birth instead of the normal 12 months, in the special circumstances of any particular case. Each case must be considered on its individual merits, and the parents should, if necessary, be asked to explain what the special circumstances are. Examples of when discretion would normally be appropriate include:

- the death of one or more of their parents
- significant changes in domestic circumstances, such as divorce

Discretion should not normally be exercised:

- automatically to extend the normal time limit
- if the only reason for the delay is the parents did not know about the time limit

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