

BRITISH CITIZENSHIP - CHILDREN BORN OUTSIDE THE UNITED KINGDOM SINCE 1 JANUARY 1983

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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 and the Immigration, Asylum and Nationality Act 2006. The information given here 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 the policy.

1. GENERAL

The purpose of this leaflet is to explain how parents who are British citizens can pass their citizenship on to their children born outside the United Kingdom on or after 1 January 1983.

Definitions

- (a) The “United Kingdom” means England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man.
- (b) The “British Overseas Territories” are:
- Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St. Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and Virgin Islands.
- (c) Reference to “qualifying territories” mean the British overseas territories other than the Sovereign Base Areas of Akrotiri and Dhekelia.
- (d) “Parent” means:

Children born before 1 July 2006

- the mother (but note that women were not able to pass on citizenship to their children before 1 January 1983).
- the father - but only if he was married to the mother.

If the parents were not married when the child was born, but then get married, the marriage might “legitimate” the child’s birth. If it does, the child would be regarded as having been a British citizen from birth if the father was a British citizen when the child was born.

Children of a void marriage may also, in some circumstances, be treated as if their parents were married.

Children who were born before 1 July 2006 and who did not become British citizens because their parents were not married may be able to register as a British citizen – see section 7.

Children born on or after 1 July 2006

- the mother is the woman who gives birth to the child

- the father is a man who:
 - a. is married to the mother at the time of the birth; or
 - b. is treated as the father under section 28 of the Human Fertilisation and Embryology Act 1990 or section 35 or 36 of the Human Fertilisation and Embryology Act 2008; or
 - c. (if neither (a) *nor* (b) apply) can satisfy the prescribed requirement as regards proof of paternity. This means r being able to satisfy the Secretary of State that he is the father of the child, by provision of evidence including DNA test results, a court order or birth certificate.

In addition, for a child conceived on or after 6 April 2009 the child's father can also be a person who is treated as a parent of the child under s.42 or 43 of the Human Fertilisation and Embryology Act 2008 (second female parent).

(e) A "British citizen otherwise than by descent" is someone who can pass their citizenship onto a child born overseas. Generally speaking a British citizen *otherwise than by descent* is a British citizen who was born, adopted, naturalised or, in most cases, registered in the United Kingdom or a qualifying territory.

(f) A "British citizen by descent" cannot normally pass on citizenship to a child born overseas.

A British citizen by descent could have become such a citizen in a number of ways – for example:

- by birth outside the United Kingdom to a parent who was a British citizen otherwise than by descent
- by registration

2. CHILDREN BORN IN A BRITISH OVERSEAS TERRITORY

A child who is born in a British overseas territory will be a British overseas territories citizen otherwise than by descent if, when the child was born, a parent was:

- a British overseas territories citizen; or
- settled in a British overseas territory.

“Settled” means being ordinarily resident in an overseas territory without being subject to any immigration time restrictions.

The British Nationality Act 1981 contains special arrangements for children born stateless in a British overseas territory to become British nationals at birth.

Further information can be found on the Gov.UK website:

<https://www.gov.uk/register-british-citizen/stateless-people>.

Children born before 21 May 2002

A child who was born in a British overseas territory before 21 May 2002 and who is a British overseas territories citizen will also have become a British citizen otherwise than by descent on that date unless the child was:

- a British overseas territories citizen only by connection with the Sovereign Base Areas of Akrotiri and Dhekelia (in Cyprus); or
- already a British citizen by descent.

Children born on or after 21 May 2002

A child who is born in a qualifying territory on or after 21 May 2002 will be a British citizen otherwise than by descent if, when the child is born, one of the parents is:

- a British citizen; or
- settled either in the United Kingdom or in that territory.

Registration

A child born in a British overseas territory who is not a British overseas territories citizen may have a right to be registered as a British overseas territories citizen if:

- a. one of the parents becomes a British overseas territories citizen or settled in a British overseas territory; or
- b. the child lives in that territory for the first 10 years of his or her life and was not absent from that territory for more than 90 days in any one of those years; or
- c. on the basis of residence in a British overseas territory if he or she is aged under 22 and has always been stateless.

A child who is registered as a British overseas territories citizen by connection with a qualifying territory may then be able to register as a British citizen. Further information about registration can be found on the Gov.UK website:

<https://www.gov.uk/register-british-citizen/british-nationals>.

3. CHILDREN BORN OUTSIDE THE UNITED KINGDOM TO BRITISH CITIZENS OTHERWISE THAN BY DESCENT

A child born outside the United Kingdom will be a British citizen by descent if either parent is a British citizen otherwise than by descent at the time of the birth.

However, in certain cases, a child who is born to a British citizen otherwise than by descent may also be a British citizen otherwise than by descent (see section 5 below).

4. CHILDREN WHO ARE BORN OUTSIDE THE UNITED KINGDOM TO BRITISH CITIZENS BY DESCENT

A child born outside the United Kingdom will not be a British citizen if neither parent is a British citizen otherwise than by descent. A parent who is a British citizen by descent cannot normally pass that status on. The exception to this is where the parent was in one of the 3 types of service listed in section 5 at the time of the birth.

A child who is not a British citizen may be entitled to be registered as a British citizen. Further information can be found on the Gov.Uk website:
<https://www.gov.uk/register-british-citizen/children-born-outside-uk>.

5. CHILDREN BORN TO PARENTS IN CROWN AND SIMILAR SERVICE

Different rules apply to children born to a parent who is a British citizen in

- Crown service
- specially designated service
- European Community institution service

at the time of the birth.

A child will be a British citizen otherwise than by descent at birth if, when the child is born, one of the parents:

- is a British citizen; and
- is working outside the United Kingdom in one of the types of service mentioned above; and
- was recruited to that service in the United Kingdom (or if the child was born on or after 21 May 2002, in a qualifying territory); **or**
- if serving with a European Community institution, was recruited in a country which was a member of the European Union at the time.

Information about service which has been designated and European Community Institution service can be found at:

<https://www.gov.uk/government/publications/chapter-4-acquisition-by-birth-outside-the-uk-nationality-instructions>.

6. ADOPTED CHILDREN

Information about how an adopted child can become a British citizen can be found at:

<https://www.gov.uk/government/publications/guidance-on-how-adopted-children-can-become-british>.

7. REGISTERING YOUR CHILD AS A BRITISH CITIZEN

Information about registering a child as a British citizen can be found in Guide MN1 on the Gov.UK website at:

<https://www.gov.uk/register-british-citizen/children-born-outside-uk>.

For children born before 1 July 2006 who did not become British citizens because their parents were not married - see Guide UKF:

<https://www.gov.uk/government/publications/application-to-register-as-a-british-citizen-form-ukf>.

8. PASSPORTS

Information about British passports can be found on the Gov.UK website at: <https://www.gov.uk/get-a-child-passport>.

If your child is not a British citizen and needs to travel, you should apply to the authorities of the country of which your child is a national (or, if you are not sure, the country in which the child was born) for a travel document for your child.

A child who does not have a British passport and wants to travel with his or her parents to the United Kingdom, or to join them there, will need entry clearance. Further information can be found at: <https://www.gov.uk/apply-uk-visa>.

9. CONTACT DETAILS

Contact details for UK Visas and Immigration can be found at:

<https://www.gov.uk/contact-ukvi/british-citizenship-and-nationality>.