



Home Office

# Registration as British citizen: other British nationals

Version 4.0

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# About this guidance

This guidance tells Home Office staff how to consider applications to register as a British citizen, submitted by or on behalf of British nationals.

## 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 **4.0**
- published for Home Office staff on **31 December 2020**

## Changes from last version of this guidance

- the “Presence in the UK at the start of the qualifying period” section has been amended to clarify when an applicant might be invited to “redeclare” their application
- amendments to the sections on excess absences to include absences due to global pandemic
- an amendment to take into account the end of the “transition period” after the UK left the EU

## Related content

[Contents](#)

# Registering British nationals as British citizens: legal requirements

This page tells you about the relevant parts of the British Nationality Act 1981 which provide for the registration of British nationals as British citizens.

[Sections 4\(2\), 4\(5\), 4A and 4B of the British Nationality Act 1981](#) provide for British nationals to be registered as British citizens.

In addition to British citizens there are 5 types of British national. These are:

- British overseas territories citizen
- British national (overseas)
- British overseas citizen
- British subject
- British protected person

The registration provisions in this chapter cover all or some of those categories.

## Evidence to be supplied

To guard against the possibility of fraud we should expect to see evidence of identity over and above that to establish eligibility for registration. It should be remembered in particular that a birth certificate is evidence not of identity but of an event.

## Check the application

There is always the possibility that an applicant is already a British citizen (BC) under one of the following sections of the British Nationality Act 1981(BNA 81):

- [section 1\(1\) of the BNA 81](#):
  - born in the UK on or after 1 January 1983
  - born in the UK or a qualifying territory on or after 21 May 2002
- [section 1\(2\) of the BNA 1981](#):
  - found abandoned in the UK on or after 1 January 1983
  - found abandoned in the UK or a qualifying territory on or after 21 May 2002
- [section 1\(5\) of the BNA 81](#):
  - adopted in the UK on or after 1 January 1983
  - adopted in the UK or a qualifying territory on or after 21 May 2002
- [section 2\(1\) of the BNA 81](#), born outside the UK (or since 21 May 2002 outside the UK and qualifying territories) to a parent who is a BC otherwise than by descent
- [section 11 of the BNA 1981](#), became a British citizen on 1 January 1983
- [section 3\(1\) of the British Overseas Territories Act 2002](#), was a British overseas territories citizen (except by virtue only of a connection with the sovereign bases of Akrotiri and Dhekelia) before 21 May 2002

- [section 6\(1\) of the British Overseas Territories Act 2002](#) , born between 26 April 1969 and 1 January 1983 to a mother who at birth was a citizen of the United Kingdom and colonies by birth in the British Indian Ocean Territory

If it is not clear from the papers we have that the applicant is already a British citizen, you must not investigate this possibility. However it is important to remember that an applicant may have an automatic claim to British citizenship as a child:

- of a void marriage
- legitimated by the parents' subsequent marriage

If the applicant has an automatic claim you must write and say so and explain that registration is not necessary, and refund in full any fee submitted with the application

## Check for an alternative entitlement

If there is no automatic claim to British citizenship and no entitlement to registration under [section 4\(2\)](#) or [section 4B](#), there may be an entitlement under:

- [section 1\(3\)](#) UK born and a minor on the date of application with a parent who is a BC or settled in the UK
- [section 1\(4\)](#) UK born and aged 10 or over on the date of application and resident in the UK for the first 10 years of their life
- [section 3\(2\)](#) born to a parent who is BC by descent either
  - outside the UK after 1 January 1983 or
  - outside the UK and qualifying territories on or after 21 May 2002
- [section 3\(5\)](#) born to a parent who is BC by descent either
  - outside the UK after 1 January 1983 or
  - outside the UK and qualifying territories on or after 21 May 2002
  - Is a minor on the date of application
- [Section 5](#) UK national for EC purposes
- Stateless persons [schedule 2 paragraphs 3 to 5](#)

## No entitlement

If you are satisfied that the applicant has no entitlement to registration under any provision, you must consider the possibility of:

- naturalisation under [section 6](#) for an adult
- registration under [section 3\(1\)](#) for a minor

### Related content

[Contents](#)

### Related external links

Naturalisation as British citizen at discretion

Registration as British citizen : stateless persons

Registration as British citizen: children

British citizenship: automatic acquisition

Right of abode

# Section 4(2) registration by entitlement on grounds of residence in the UK

This page tells you about the requirements for registration under section 4(2) of the British Nationality Act 1981.

British overseas territories citizens, British nationals (overseas), British overseas citizens, British subjects under the 1981 act or British protected persons are entitled to registration as British citizens under [section 4\(2\) of the British Nationality Act 1981](#) if they were:

- either:
  - in the UK at the beginning of the period of 5 years ending with the date of the application
  - settled in the UK immediately before 1 January 1983 (that is on 31 December 1982)
- not absent from the UK for more than either:
  - 450 days in the 5 year period ending with the date of application
  - 90 days in the period of 12 months ending with the date of application
- not, on the date of application, subject under the immigration laws to any restriction on the period of stay in the UK
- not subject under immigration laws to any restriction on their stay in the UK in the 12 months immediately before the date of the application
- not at any time in the 5 years ending with the date of application in the UK in breach of the immigration laws
- if aged 10 or over on the date of application the Secretary of State is satisfied they meet the good character requirements

When referring to absences you must only count whole days absences. You must not count the dates of arrival and departure as absences.

For the purpose of [section 4\(2\)](#), residence means physical presence. The applicant does not have to have been ordinarily resident here. An applicant is to be regarded as present in the UK unless physically absent. Unlike naturalisation applications, there is no provision to treat certain periods of physical presence as absences.

There is discretion to waive the residence requirements except that the applicant must:

- have been in the UK at the beginning of the 5 year period, unless they were settled in the UK on 31 December 1982
- be free from time restrictions under immigration law at the time of their application

## Section 4(2) Residence requirements

Those applying under [section 4\(2\)](#) of the British Nationality Act 1981 are required to have completed a period of 5 years residence in the UK.



The purpose of the residence requirements is for an applicant to demonstrate close links with and a commitment to the UK, and to enable the Home Secretary to assess the strength of the commitment. The normal expectation therefore is that applicants should meet the residence requirements.

Under [section 4\(4\) of the British Nationality Act 1981](#) (BNA 1981), the Home Secretary has discretion, in the special circumstances of any particular case, to waive some of the residence requirements. You must not normally exercise discretion in a way that would detract from the objectives set out above.

In the BNA 1981, the expression "the United Kingdom" does not include United Kingdom territorial waters. Periods of time on ships or oil rigs in those waters therefore count as absences from the United Kingdom.

## Check the residence requirements

You must check whether the applicant has met the residence requirements by checking the following:

- passports or travel documents which have been endorsed to show arrival in and departure from the UK
- Home Office records
- any other evidence, such as, employers letters or tax and National Insurance letters

Passports will not necessarily be stamped to show embarkation from the UK. In these and other circumstances, such as where the applicant's passport has been lost or stolen, you must give an applicant the benefit of the doubt where claimed absences are within the limits we would normally allow, and there are no grounds to doubt the claim.

Doctors' letters on their own are not normally acceptable proof of residence. However, if nothing else is available, and the doctors can confirm that they have seen the applicant on a regular basis during the period concerned, this may be accepted. If there are gaps in a person's evidence of residence and it is clear from the information available that they could not have travelled, you may proceed. Examples of this might include a refugee who has no means of travel or where immigration records confirm continuous residence.

Only whole days absences should be counted. The dates of departure and arrival should not be counted as absences.

## Presence in the UK at the start of the 5 year qualifying period

With the exception of applicants who were settled in the UK on 31 December 1982, there is no discretion to waive the requirement to have been physically present in the UK on a date 5 years before the date of application.

The start of the qualifying period of 5 years is the day after the corresponding application date. For example, if the application date is 5 January 2020, the 5 year qualifying period starts on 6 January 2015.

Where an applicant who was not settled in the UK on 31 December 1982 misses the requirement to have been in the UK on the date 5 years prior to the application date by 2 months or less either way, we may consider offering re-declaration if either:

- subject to the initial 2 months limit, the applicant could meet the unwaivable residence requirements now that the case is being looked at (there is no maximum time limit between application date and consideration of this point)
- the case is being considered within 2 months of the date of application and the requirement would be met within that 2 months, for example:
  - if the application date was 1 July 2020 and we were looking at the case on 1 August 2020 we would need to see if the applicant would meet the requirements by 1 September 2020 to ensure they had at least 2 months from the date of the application

There is no flexibility to extend the periods included in this guidance. If, for example, an applicant misses the requirement by 2 months and 1 day, the application should be refused regardless of any other circumstances.

You must decide whether or not the start date requirement is, or will be, met by weighing up the information already on the application form and anything already held on file, and need not send for passports or other documents to establish this.

When an application form is re-declared, the original application date is superseded by a new application date, which is the date on which the re-declared form is received back in the Home Office. You must take care to advise applicants, where necessary, to avoid re-submitting application forms to arrive on dates when they would again fail to meet the 5 year start date. When an application is re-declared the fee charged is that in force on the new application date. Any overpayment must be refunded from nationality fees immediately.

An applicant who does not meet the criteria above should be refused on the grounds of failing to satisfy the statutory requirement to have been in the UK on the date 5 years prior to the date of application.

There may be cases where it is appropriate to invite an applicant to redeclare their application on an exceptional basis. This might be where a person did not meet the unwaivable requirement at the date of application, but it was significantly delayed due to departmental error, and they would now do so.

## Applicants settled in the UK before 1 January 1983

[Section 4\(3\) of BNA 1981](#) explains that an applicant under [section 4\(2\)](#) who was settled in the UK immediately before 1 January 1983 is not required to have been in the UK at the beginning of the 5 year period ending with the date of application. This benefits applicants settled in the UK on 31 December 1982 who either:

- were ordinarily resident in the UK 5 years before the date of their application, but who happened to be absent on the first day of the 5 year period
- on the date of application, had been in the UK for less than 5 years, but who can make up the qualifying period of 5 years by the use of the 450 days allowable absences

Registration under [section 4\(2\)](#) gives British citizenship otherwise than by descent.

## Excess absences in the 5 year qualifying period

Under [section 4\(4\)\(a\) of the British Nationality Act 1981](#), there is discretion to waive excess absences in the 5 year qualifying period. You should normally consider exercising this discretion as follows:

- absences totalling 480 days, you should normally disregard
- total absences of up to 900 days, consider disregarding only if the application is otherwise in order and applicants have established their home, employment, family and finances here,

Where the total absences are between 480-900 the applicant should also normally meet one of the following criteria:

- at least 2 years residence (without substantial absences) immediately prior to the 5 year qualifying period
- if the period to be disregarded is greater than 730 days the period prior to residence should normally be at least 3 years
- the excess absences were due to postings abroad in Crown service under the government of the UK
- the excess absences were an unavoidable consequence of the nature of a career, for example a merchant seaman or someone in UK based business or employment which requires frequent travel abroad
- exceptionally compelling reasons of an occupational or compassionate nature to justify registration such as a firm offer of a job for which British citizenship is a statutory requirement
- the excess absences were due to accompanying a BC spouse on an overseas appointment
- the excess absences were because the applicant was unable to return to the UK because of global pandemic

You must normally refuse the application where an applicant has absences exceeding 900 days and invite the applicant to re-apply when they are more able to meet the statutory requirements.

## Excess absences in the final year

You should normally disregard total absences not exceeding 100 days.

Total absences of more than 100 but no more than 180 days where the requirement over the total period is met. You should consider disregarding the absences if the applicant has demonstrated links with the UK through the presence here of:

- home
- employment
- family
- finances

You should only disregard if the applicant has demonstrated links with the UK and either:

- the excess absences were due to postings abroad in Crown service under the government of the UK
- there are exceptionally compelling reasons of an occupational or compassionate nature to justify registration now, including for example because the applicant has a firm offer of a job for which British citizenship is a statutory or mandatory requirement
- the excess absences were because the applicant was unable to return to the UK because of global pandemic

Total absences exceeding 180 days where the residence requirements over the total period are not met. You must only disregard in the most exceptional circumstances and where the criteria above are met.

## Free from immigration time restrictions

All applicants for registration under [section 4\(2\) of the BNA 1981](#) must be free of immigration time restrictions on the date of application. There is no discretion to waive this requirement. It is important to note that this does not mean all applicants must hold indefinite leave to enter (ILE) or remain (ILR) in the UK. In addition to holding ILE or ILR the following must also be treated as meeting this requirement:

- people who have the right of abode in the UK
- people who are not in the UK, unless it is clear that they are applying from outside the UK to circumvent the requirement and would otherwise be subject to immigration conditions
- people who have entered the UK illegally and have not been granted limited leave, although these will fall to be refused on the fact that they have breached immigration laws
- people exempt from immigration control [under section 8\(2\), 8\(3\) or 8\(4\) of the Immigration act 1971](#) unless technically absent from the UK

A person is not regarded as being free from immigration time restrictions if they:

- have overstayed a limited leave to enter or remain
- are on temporary admission
- are in immigration

- have absconded from temporary admission or detention

Where a person was settled in the UK before 1 January 1973, they may be free from immigration time restrictions. Such cases must be considered in line with the Windrush Scheme guidance.

Information about when EEA and Swiss nationals and their family members are regarded as free from immigration time restrictions can be found in the [“Naturalisation as a British citizen by discretion”](#) guidance.

## Discretion to waive immigration breaches

There is some discretion to disregard breaches of the immigration laws (unlawful residence) during the qualifying period. Such breaches only involve being here without leave to enter or remain. Other immigration offences, such as breaching a restriction on taking employment and harbouring other immigration offenders, should not be considered under the residence requirement, but under the good character requirement.

It will normally be clear from CID if a person is or has been in breach. Where this is in doubt, you must obtain the applicant’s previous files and seek advice from your senior caseworker if necessary.

You must only exercise discretion to disregard a period of unlawful residence if there are reasons for this which were clearly outside the applicant’s control, or if the breach was genuinely inadvertent and short.

Examples of when you might exercise discretion include where:

- the breach occurred at a time when the applicant was a minor whose parents failed to obtain or renew their leave
- the applicant was a victim of domestic violence whose abusive partner prevented the renewal of leave
- the applicant had made an ‘in-time’ application, but the application was rejected and so they became in breach, (this is provided there is no reason to doubt that the form was submitted in good faith and a fresh application was submitted within 28 days of the rejection and before 24 November 2016)
- the applicant had made a late application for leave to remain which was subsequently granted and either:
  - the application was not submitted more than 28 days after the expiry of their previous leave and before 24 November 2016
  - the application was not submitted after more than 28 days overstaying if it was an asylum application
  - the person had a period of more than 28 days between their leave expiring and them making a new application and there were exceptional circumstances such as a family illness or bereavement
  - the period of overstaying ended on or after 24 November 2016 and leave was granted in accordance with [paragraph 39E of the immigration rules](#)

- the person arrived the United Kingdom illegally but either presented themselves without delay to the immigration authorities or was detected by the immigration authorities within one month after arrival (or longer where there are extenuating circumstances)
- an application for asylum or leave to remain was refused but was later acknowledged to be an incorrect decision and the appropriate leave was granted

A person may be in breach if they have not complied fully with all the requirements of the route they are on. Following the introduction of the EU Settlement Scheme, some EEA or Swiss nationals who have not fully complied with additional requirements under the EEA regulations, such as having comprehensive sickness insurance where they needed it, may have been in breach of immigration law. If you are considering an application from an EEA or Swiss national, or their family member, you must consider whether to exercise discretion over any such breach in line with the guidance on Naturalisation as a British citizen, under the "[Discretion to waive immigration breaches](#)" section.

You must not exercise discretion to disregard a period of unlawful residence in any other circumstances, and particularly not when the breach was both substantial and deliberate. This includes:

- unlawful residence after the person tried to regularise their stay (except in the [cases referred to previously](#))
- unlawful residence where a person who had deliberately entered or remained in the UK without permission was granted leave under the former 14 year long residence policy or under a concession (unless refugee status was granted as a result)

You must not use this discretion for any other type of breach than unlawful residence during the qualifying period. For example, if there is evidence of working in breach of conditions, or failure to observe reporting requirements. Where the residence requirement is met (with or without the exercise of discretion) it is then a separate test whether the person meets the good character requirement. A history of non-compliance with immigration requirements is a factor to be weighed in that decision.

## Discretion to register under section 4(5)

[Section 4\(6\) of the British Nationality Act 1981](#) explains that [section 4\(5\)](#) applies to:

- Crown service under the government of a British overseas territory
- other paid or unpaid service as a member of a body established by law in a British overseas territory members of which are appointed by or on behalf of the Crown

Registration under section 4(5) gives British citizenship otherwise than by descent

## Criteria for determining section 4(5) applications

The intention of [section 4\(5\) of the British Nationality Act 1981](#) is to recognise the position of those who serve the Crown in the British overseas territories in a particularly deserving way. The discretion in section 4(5) is to be used:

- to enable those who have come to live in the United Kingdom to be registered as British citizens before completing 5 years residence
- in cases where such particularly deserving service has been rendered to the Crown under the government of a British overseas territory that it would be appropriate to grant British citizenship without insisting on previous residence in the United Kingdom

The discretion in section 4(5) must be used sparingly and not as a regular benefit of Crown servants in the British overseas territories for periods of satisfactory service. This puts registration under this provision on a similar basis to the granting of naturalisation under [section 6\(1\)](#) grounds of Crown service.

Each application must be considered on its merits in accordance with [the criteria](#). Quality of service is the most important criterion. If this is not met, it is unlikely that registration will be appropriate even if the other criteria are met.

## Criteria to be applied

The applicant should have played such a crucial part in the government of a British overseas territory that the service could be recognised as benefitting the United Kingdom itself.

Service of significant benefit to a British overseas territory could be any of the following:

- executive and legislative bodies
- statutory bodies
- education boards
- trade advisory boards
- military bodies

This list above is not exhaustive. It will be for an applicant to show that they were in a service which meets the statutory requirements and that the service can be seen as benefitting the UK.

In addition to meeting the quality of service criterion above, the applicant must normally show close connections with the UK. These might include in order of importance:

- ancestors born in the UK
- close relatives who are British citizens
- previous service in HM Forces
- payment of UK Income Tax
- investment in the UK
- education in the UK



- education of children in the UK
- close relatives living in the UK

The more senior the position reached by the applicant the more likely it is that the quality of service criteria will be met. However, an applicant in a more junior position may be registered if particularly deserving service beyond the call of duty has been performed.

Where an applicant whose loyalty to the Crown is in question you must normally refuse registration on those grounds alone.

Unquestioned loyalty should, however, not be as highly regarded as loyalty that has been tested and demonstrated. Examples are:

- service in a particular post that makes the applicant unpopular in the society in which they move
- the award of decorations for merit

Length of service is not, in itself, a pre-requisite for registration. The important factor is the quality of service. However, you must normally expect an applicant to have completed at least 10 years service.

## Sections 4(2) and 4(5) evidence to be supplied

A person applying under [sections 4\(2\) and 4\(5\)](#) must provide the following evidence of their citizenship:

- [British overseas territories citizen](#)
- [British national \(overseas\)](#)
- [British overseas citizenship](#)
- [British subject to status under the British Nationality Act 1981](#)
- [British protected person](#)

## British overseas territories citizen

The evidence provided must be either:

- a passport describing the holder as either a British dependent territories citizen or a British overseas territories citizen
- a birth certificate showing their parents' details and that they were born in a British overseas territory before 1 January 1983
- a certificate of registration or naturalisation describing the holder as either a British dependent territories citizen or a British overseas territories citizen
- a certificate of registration or naturalisation granted in a British overseas territory describing the holder as a citizen of the United Kingdom and Colonies
- the relevant documents relating to parents, grandparents or spouse:
  - birth certificates
  - adoption certificates



- marriage certificates
- death certificates
- registration or naturalisation which establishes a claim to British overseas territories citizenship

If an applicant's citizenship depended on a connection with St Christopher and Nevis or Hong Kong, they may have lost that citizenship on 19 September 1983 or 1 July 1997 respectively. However, the person may still possess another form of British nationality.

## British national (overseas)

The evidence must be a passport describing the holder as a British national (overseas).

## British overseas citizenship

The evidence provided must be either:

- a passport describing the holder as a British overseas citizen
- a certificate of registration describing the holder as a British overseas citizen
- a certificate of registration granted outside the UK and the British overseas territories describing the holder as a citizen of the United Kingdom and Colonies but without the right of abode in the UK
- relevant documents relating to the applicant's parents, grandparents or spouse, which establish that the applicant was a citizen of the United Kingdom and Colonies who did not, on 1 January 1983, become either a British citizen or a British dependent territories citizen
- relevant documents showing that the applicant was a British dependent territories citizen by connection only with Hong Kong and did not on 1 July 1997 have any other nationality or citizenship

## British subject status under the British Nationality Act 1981

The evidence provided must be either:

- a passport issued on or after 1 January 1983 describing the holder as a British subject
- a certificate of registration describing the holder as a British subject
- an acknowledgement of a claim to remain a British subject under [section 2 of the British Nationality Act 1948](#) or [section 31\(3\) of the British Nationality Act 1981](#)
- documents relating to the applicant's parents, grandparents or spouse which establish that the applicant became, on 1 January 1949, a British subject without citizenship under [section 13 or 16 of the British Nationality Act 1948](#) and had that status on 31 December 1982

## British Protected Person

The evidence provided must be either:

- a passport issued on or after 1 January 1983 describing the holder as a British protected person
- a certificate of registration describing the holder as a British protected person under article 7(2) of the [British Protectorates States and Protected Persons Order 1982](#)
- other documents and information which show that the person can be regarded as a British protected person under:
  - any provision of the 1982 order
  - the [Solomon Islands act 1978](#)

It is important to remember that those who claim to be British subjects under [sections 30, 32 or 33](#) or [paragraphs 1, 2 or 4 of schedule 2 of the British Nationality Act 1981](#) or British protected persons under the British Protectorates States and Protected Persons Order 1982 may have lost that status automatically if they have acquired another nationality or citizenship. They will be ineligible for registration under [section 4](#) or [section 4B](#). If there is any information to suggest this may be the case, you must investigate the matter before determining the application.

## Section 4(2) further supporting evidence

For residence in the UK at the beginning of the 5 year qualifying period the evidence needed is:

- a passport or parent's passport (if included in one)
- letters from employers
- letters from schools or other educational establishments
- a letter from HM Revenue and Customs showing the payment of National Insurance contributions
- letter from HM Revenue and Customs confirming payment of tax or P60s
- any other documents which establish residence in the UK at the relevant time if the applicant claims to have been settled in the UK on 31 December 1982, either:
  - an immigration officer's stamp in a passport showing the holder had been given leave to enter the UK for an indefinite period or without any restriction on the period of stay
  - a Home Office stamp in a passport or on a personal file confirming indefinite leave to remain in the UK or that there was no limit on a person's stay here
  - a Home Office letter showing that the applicant had been granted indefinite leave to remain in the UK

A certificate of entitlement or patriality in a passport showing the holder has the right of abode in the UK or a stamp in a passport showing that the holder is exempt from immigration control is not evidence of settled status in the UK. However, some people who have certificates of entitlement or patriality or who are exempt from immigration control can be regarded as settled.

For residence throughout the 5 year qualifying period, the evidence needed is the same types of documents as those suggested for evidence of presence in the UK at the beginning of the 5 year qualifying period, but covering the whole period.

Absences of not more than 450 days in the 5 year qualifying period or 90 days in the 12 months before the application, the evidence needed is a passport or parent's passport (if included in one). If no passport is held, we can assume there were no absences unless there is evidence on the papers to the contrary.

Freedom from restrictions of stay throughout the 12 month period ending with the date of the application.

Where the applicant appears to be exempt from immigration control, or where there is otherwise any doubt about immigration status the application should be referred to Permanent Migration Settlement.

## Good character

Where an application is made in a British overseas territory, the governor will confirm whether anything adverse has become known since acquisition of British overseas territories citizen status about the applicant's character if he has such information. The details will be provided in a covering letter.

Normal internal enquiries should be carried out in all cases. UK criminal records checks should only be carried out where:

- the applicant lives in the UK and has made the application direct to the Home Office
- there is any information to suggest that the applicant has, at any time lived in the UK (they may have included details of a UK address on the application form)

Normally this should be the limit of our enquiries into an applicant's character. However, any adverse information about the applicant's character (including any details of convictions) should be considered in accordance with the guidance on good character.

## Section 4(5) further supporting evidence

For past or present service as described in [section 4\(6\) British Nationality Act 1981](#), the evidence needed is a statement or certificate from either:

- a British overseas territory government department confirming Crown service under the government of a British overseas territory
- a body established by law in a British overseas territory confirming service as a member and that the person was appointed by or on behalf of the Crown

### Related content

[Contents](#)

# Consideration at discretion of section 4(A) applications

Under [section 4A of the British Nationality Act 1981](#) the Home Secretary has discretion to register a British overseas territories citizen as a British citizen.

## The Law

A person may be registered as a British citizen at the Home Secretary's discretion under [section 4A of the British Nationality Act 1981](#), as inserted by the [British overseas territories Act 2002](#) they:

- are a British overseas territories citizen
- do not have the citizenship only by a virtue of a connection with the sovereign base areas of Akrotiri and Dhekelia
- have not previously ceased to be a British citizen as a result of declaration of renunciation
- satisfy the secretary of state that they are of good character

Registration under section 4A gives British citizenship otherwise than by descent.

Applications made in a British overseas territory will be forwarded by the governor of the territory concerned together with the evidence and information. If the necessary evidence or information has not been supplied, you must write to the office of the governor of that territory to request it.

Applications made direct to the Home Office need to be accompanied by the applicant's passport or other documents showing that the applicant is a British overseas territories citizen (BOTC). If the application is in order, you should write to the office of the governor of the British overseas territory with which the applicant is connected to request a copy of the BOTC registration or naturalisation application form and information on character.

## Check the application

You must confirm from the information given on the application form and supporting papers/documents, that the applicant did not acquire BOTC on or after 21 May 2002 only through a connection with the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus.

You must check that the application for registration or naturalisation as a BOTC was properly determined. It would not normally be appropriate to register an applicant under [section 4\(A\)](#) if:

- the applicant has been registered or naturalised as a BOTC in error (see below)
- the registration or naturalisation had been obtained by:
  - fraud

- false representations
- concealment of material facts

If a person had been registered or naturalised as a BOTC incorrectly due to an administrative error but, by the time the [section 4\(A\)](#) application is considered we are satisfied that they would since have met the requirements, you must consider exercising discretion in their favour.

It will not normally be necessary to conduct detailed enquiries. In most cases, it should be possible to make an assessment based on:

- the copy of the relevant application form provided by the governor of the territory concerned
- any other information provided by the governor or which comes to light while the application is being considered

## Previous renunciation

One of the requirements for registration under [section 4A](#) is that applicants should not have previously renounced British citizenship. This is because registration under section 4A always confers British citizenship otherwise than by descent and would give a former British citizen a better status than the one he had renounced if he had previously been a British citizen by descent. Such a person should apply for resumption if he wishes to re-acquire British citizenship.

You must confirm that the applicant has not already renounced British citizenship. It is not necessary to check whether the applicant has renounced any other form of British nationality.

## Good character

Where an application is made in a British overseas territory, the governor will confirm whether anything adverse has become known since acquisition of BOTC status about the applicant's character and, if they have any such information, they will provide details in the covering letter.

Normal internal enquiries must be carried out in all cases. UK criminal record checks should only be carried out where:

- the applicant lives in the UK and has made the application directly to the Home Office
- there is any information to suggest that the applicant has lived in the UK

Normally, this should be the limit of our enquiries into the applicant's character. However, any adverse information about the applicant's character (including any details of convictions in the UK or overseas) should be considered under the good character requirements.

## Registration procedure and record keeping

Once registration has taken place, arrangements should be made to send the certificate by diplomatic bag to the office of the governor with the usual covering letter.

For statistical purposes, a record should be kept of the territories with which applicants are linked, their countries of origin and length of time spent in the territories.

### **Related content**

[Contents](#)

# Consideration by entitlement of section 4B applications

These pages tell you how to consider applications for registration under section 4B of the British Nationality Act 1981.

[Section 4B](#) provides a registration route for

- overseas citizens
- British subjects
- British protected persons
- British nationals (overseas)

A person whether an adult or a minor, is entitled to be registered as a British citizen under [section 4B of the British Nationality Act 1981](#) (BNA 1981), as inserted by the [Nationality, Immigration and Asylum Act 2002](#), if:

- they are a British overseas citizen, a British subject, a British national (overseas) or a British protected person
- the Secretary of State is satisfied that they have no other citizenship or nationality
- the Secretary of State is satisfied that he or she has not renounced, voluntary relinquished or lost through any action or inaction citizenship or nationality:
  - for British overseas citizens, British subjects and British protected persons, on or after 4 July 2002
  - for British nationals (overseas), on or after 19 March 2009

Registration under section 4B gives British citizenship by descent.

## Alternative entitlement under section 4(2)

It is anticipated that most [section 4B](#) applicants will apply from outside the UK and have had little, if any, UK residence. However, section 4B applications from people who are equally entitled to registration under [section 4\(2\)](#) and section 4B should always be granted under section 4(2) because this confers British citizenship otherwise than by descent.

## Claims to have no other citizenship or nationality

If applicants have declared that they have another citizenship or nationality, they will not be eligible for registration. Even if an applicant declares that they have no other citizenship or nationality, it is possible that they will hold one because either:

- one of their parents holds a non-British citizenship or nationality
- the applicant has been registered or naturalised in a country in which they have resided

For these reasons, applicants must supply statements from the authorities of the country or countries concerned confirming that they do not have its citizenship or nationality. Such letters of confirmation should not be taken at face value if they appear to contradict any information we hold about the citizenship laws of the countries concerned.

Basic information on the citizenship laws of some countries is given in the paragraphs below. These summaries do not aim to be, nor should be taken as, comprehensive or definitive. Only the authorities in the relevant country can provide definitive advice on their citizenship law. However, the information should normally be sufficient to determine an applicant's eligibility for British nationality where this relies on their possession, or not, of another citizenship. It is for the applicant to show that they do not hold the other nationality in question.

You can use these paragraphs as part of your assessment but where additional evidence is required you must ask the applicant to provide this by letter.

Where it appears that an applicant has been issued with a formal document (such as a passport or certificate) describing the person as a citizen of another country, but information held about that country's nationality laws indicates that dual nationality is not permitted, it should not be assumed that the document was issued incorrectly. Instead, further enquiries should be made. The applicant should be asked to provide a letter from the relevant authorities confirming that:

- the document concerned was issued in error
- the applicant was at no time a citizen of that country or lost the citizenship of that country on a specific date

## Applicants of Kenyan origin

Kenya citizenship law does not allow dual nationality to be held by adults. Kenyan citizenship is lost at the age of 23 if any other citizenship held has not been renounced by then.

## Applicants of Nepalese origin

Before 26 November 2006 Nepalese law did not permit dual nationality in any circumstances. Any citizen of Nepal would:

- automatically cease to be a Nepalese citizen immediately upon acquiring the citizenship of another country
- fail at the outset to acquire Nepalese citizenship if, at the relevant time (such as at birth) they were a citizen of another country

Where the acquisition of citizenship occurred whilst the person concerned was still a minor, the claim to citizenship could be revived at any time between the ages of 16 and 21 by renouncing their other citizenship and applying to the Nepalese authorities for a citizenship certificate. Nepalese citizenship would be reacquired from the date of issue of the certificate.



The law changed on 26 November 2006 with the introduction of the [Nepal Citizenship Act 2006](#). Under this a child would be regarded as a Nepalese citizen if either parent is a Nepalese citizen. However, this does not apply where the child's mother is Nepalese and is not married to a Nepalese citizen, in such cases the child would have to be naturalised as a Nepalese citizen.

Children under the age of 16 who acquire another citizenship will not lose Nepalese citizenship automatically.

Children from birth onwards that acquire another citizenship have, with effect from 26 November 2006, 2 years to opt for one or the other nationality after reaching the age of 16.

Regarding applications for registration under the [British nationality \(Hong Kong\) Act 1997 act](#) made before 26 November 2006 by a person who acquired a form of British nationality automatically at birth an applicant under the age of 18 should not be regarded as a Nepalese citizen as they cannot renounce British nationality until that age. If an applicant is aged 18 or over, you must confirm whether the applicant has renounced British nationality. If a record exists this will be an indication that the applicant is Nepalese. If no record exists, and the applicant is over 21, it should normally be accepted the applicant is not a Nepalese citizen.

If in any case there is information to suggest that the applicant has been issued a certificate of Nepalese citizenship, and has not since then acquired another citizenship, we should normally accept the applicant is a Nepalese citizen. This presumption should apply unless the applicant provides written confirmation from the Nepalese authorities that the certificate was issued incorrectly.

If applicants have declared that they have had another nationality or citizenship and have renounced it or otherwise lost it, we will need to see evidence of renunciation, or loss and the date on which this took place. The date of renunciation or loss is crucial as the possession of any other nationality immediately before the relevant date or in the case of applicants to whom [section 1\(4\) and section 1\(5\)](#) apply the possession of another nationality at the time of birth or registration or naturalisation as a British national would render an application ineligible for registration.

Applicants will not be eligible for registration if they:

- were solely British immediately before the relevant date
- subsequently acquired another nationality or citizenship
- then renounced that other nationality or citizenship, or gave it up voluntarily by some other process equating to renunciation

## Applicants of Indian origin

Indian citizenship law does not, in general, allow for dual nationality. The only exception to this is for children who are dual nationals by birth. However even minors who are dual nationals by birth will automatically lose Indian citizenship if they acquire a passport in their other nationality.

## Birth in India prior to 3 December 2004

Under the [Citizenship act 1955](#) , and prior to the commencement of the [Citizenship \(amendment\) act 1986](#) on 1 July 1987, any person born in India was a citizen of India by birth. A person born in India on or after 1 July 1987 was a citizen of India if either of the parents was a citizen of India at the time of the birth.

## Birth in India on or after 3 December 2004

From 3 December 2004 any child born in India will only be an Indian citizen if either of the parents is a citizen of India and the other parent is either not:

- an illegal immigrant
- a foreign diplomat or envoy (who is not a citizen of India)

## Birth outside India prior to 3 December 2004

Prior to the commencement of the [Citizenship \(amendment\) act 1992](#) on 10 December 1992, a person born outside India could normally only be a citizen of India by descent if the father was a citizen of India otherwise than by descent at the time of the birth. A person born outside India on or after 10 December 1992 but before 3 December 2004 is normally a citizen of India if either parent was a citizen of India otherwise than by descent at the time of the birth. Citizenship of India acquired in this way is citizenship by descent.

However, a person born outside India to a parent who was a citizen of India by descent at the time of the birth is also a citizen of India by descent if:

- the birth is registered at an Indian Consulate or High Commission abroad
- the parent was in Indian Government service

## Birth outside India on or after 3 December 2004

Any child born outside India to an Indian parent on or after 3 December 2004 will continue to be eligible for Indian citizenship on the same basis as above, However, acquisition of Indian citizenship will not be automatic. These children will not become Indian citizens unless and until the child's birth is registered at an Indian Consulate by virtue of section 4 of the [Citizenship \(Amendment\) Act 2003](#).

When considering cases where a child potentially has a route to Indian citizenship through registration, we should ask for evidence that the child has not been registered.

## Renunciation of Indian citizenship

If an adult makes a declaration of renunciation of Indian citizenship, any minor child of that person also loses Indian citizenship from the date of renunciation.

## Dual nationality

Indian citizenship cannot normally be held in combination with any other citizenship. [Section 9 of the 1955 act](#) states any citizen of India who by either naturalisation, registration or otherwise voluntarily acquires the citizenship of another country will cease to be a citizen of India.

This means that no adult (aged 18 years old and over) can hold Indian citizenship in conjunction with any other nationality or citizenship.

If an Indian minor obtains another nationality or citizenship the child will automatically lose Indian citizenship. This applies even where the registration is made by the parents or guardians on behalf of the child. The only exception to this ban on dual citizenship is where a child is a dual national by birth. In such cases that child can remain a dual citizen until they either:

- obtain a passport in their citizenship whilst under the age of 18
- reach the age of 18

If a child who is a dual national by birth fails to renounce their other citizenship prior to reaching the age of majority or acquires a passport in their other nationality before reaching the age of 18 they will lose Indian citizenship.

## Applicants of Pakistan origin

Applicants of Pakistani origin aged 21 or over normally lose Pakistani citizenship by acquiring another nationality (exceptions include British citizenship but not other types of British nationality). Applicants under the age of 21 can normally hold another citizenship as well as Pakistan citizenship.

## Pakistan citizenship by birth

Under the [Pakistan Citizenship Act 1951](#), as originally in force, any person born in Pakistan after commencement is a citizen of Pakistan.

## Pakistan citizenship by descent

A person born outside Pakistan before 18 April 2000 can normally only be a citizen of Pakistan by descent if the father was a citizen of Pakistan otherwise than by descent.

However, a person born outside Pakistan to a father who, at the time of the birth, was a citizen of Pakistan by descent is also a citizen of Pakistan by descent if their:

- birth is registered at a Pakistani consulate or High Commission abroad
- father was in Pakistan government service at the time of the birth

A person born outside Pakistan on or after 18 April 2000 is a citizen of Pakistan by descent as above if either parent is a citizen of Pakistan.

## Renunciation of Pakistani Citizenship

Under [the 1951 Act](#), as amended by the [Pakistan Citizenship \(amendment\) act 1972](#), a citizen of Pakistan who is also (or is about to become) a citizen of another country can make a declaration of renunciation of Pakistani citizenship.

## Dual nationality

Dual nationality is not permitted. A citizen of Pakistan who is, at the same time, a citizen of some other country ceases to be a citizen of Pakistan unless that other citizenship is renounced.

There is an exception for people holding certain other nationalities, including British citizenship, but this exception does not extend to any of the other forms of British nationality.

If, despite the prohibition on dual nationality, an applicant has been issued with a passport or other formal document describing them as a citizen of Pakistan, it should not be assumed that it has been issued incorrectly.

## Female citizens of Pakistan

If a Pakistani woman marries a foreigner and acquires his nationality, her Pakistani citizenship is withdrawn but may be restored if the marriage comes to an end and she renounces her husband's nationality.

## Minors

Minors (people under 21 years of age) who qualify for Pakistani citizenship are exempt from the ban on dual nationality if they acquire another citizenship as long as their fathers do not cease to be citizens of Pakistan:

- automatically as a result of acquiring a second citizenship
- due to renunciation of Pakistani citizenship

However, if the father ceases to be a Pakistan citizen, the minor automatically loses Pakistani citizenship at the same time.

## Applicants of Sri Lankan origin

Under [the Citizenship Act 1948](#), citizens of Sri Lanka 'by descent' (this term appears to include birth in Sri Lanka) who have another citizenship by operation of law (such as by birth or descent) must renounce the other citizenship before the age of 22, failing which they cease to be citizens of Sri Lanka on reaching that age. Sri Lankan citizens by descent or by registration who voluntarily acquire another citizenship (such as by registration or naturalisation) automatically cease to be citizens of Sri Lanka. It should be noted, though, that [the Citizenship \(Amendment\) Act 1987](#) made

it possible for a person to apply to hold dual citizenship by either retaining or resuming Sri Lankan citizenship.

## Applicants of Chinese ancestry

If applicants produce Hong Kong Permanent Identity Cards which have the symbol '\*\*\*', it is almost certain that they are of Chinese ancestry and are Chinese citizens. They should therefore be asked, regardless of where they are applying, to contact the Hong Kong Special Administrative Region Immigration Department for confirmation that they are not Chinese citizens.

However, it should be noted that the issuing authority can remove these asterisks at the holder's request, so their absence is not conclusive proof that the holder is not a Chinese citizen. Where it appears from the application form or other information that applicants are wholly or partly of Chinese ancestry, they should normally be required to obtain confirmation from the Hong Kong Immigration Department that they are not Chinese citizens.

Ethnically Chinese women who marry Muslim men usually adopt Muslim names on marriage. It is therefore important to ensure that the names before marriage of female applicants and their mothers are given (as required) on the application form, since a Chinese name may indicate a claim to Chinese citizenship.

## British nationality (Hong Kong) Act 1997

### The Law

Under [section 1\(1\)](#) a person will be entitled to registration as a British citizen if:

- they are resident in Hong Kong at the time of the application
- they satisfy the requirements of [section 1\(2\)](#) and [section 1\(3\)](#)
- the Secretary of State is satisfied they are of good character

[Section 1\(2\)](#) applies to any person who, immediately before 4 February 1997 'the relevant date':

- was ordinarily resident in Hong Kong
- was a British dependent territories citizen by virtue only of a connection with Hong Kong
- would have been stateless if not either:
  - a British dependent territories citizen
  - a British dependent territories citizen and a British national (overseas)

The requirements of [section 1\(3\)](#) are the same as [section 1\(2\)](#) except that references to British dependent territories citizens and British national (overseas) should be read as British overseas citizens, British subjects and British protected persons.

The 'relevant date' includes:

- the date of birth if the applicant was born on or after 4 February 1997
- the date of registration or naturalisation as a British national (if the applicant only acquired the citizenship or status concerned by registration or naturalisation on or after 4 February 1997)

[Section 1\(6\)](#) provides that persons will not be registered under [section 1\(1\)](#) if on or after the 'relevant date', they have renounced, or otherwise voluntarily relinquished, the nationality or citizenship of another country or territory. However, the fact that the applicant has acquired another nationality or citizenship on or after the relevant date is not, on its own a basis on which the application can be refused.

For further guidance on the evidence required to establish whether a person is eligible for registration under the [1997 Hong Kong Act](#) evidence to be supplied.

## Applicants of Malaysian origin

Malaysian citizens may be deprived of citizenship if:

- they have acquired citizenship of any country outside Malaysia either by:
  - registration
  - naturalisation
  - voluntary and formal act ([clause 24\(1\)\) of the Constitution of the Federation of Malaysia](#)
- they have voluntarily claimed and exercised in a foreign country any rights available to them under that country's laws where those rights are accorded exclusively to that country's citizens ([clause 24\(2\)](#))

Under [clause 24\(3A\) of the Constitution](#), a person is deemed to have claimed and exercised a right mentioned in Clause 24(2) if, after 10 October 1963, they either:

- applied to the authorities of another country for the issue or renewal of a passport
- use a passport issued by another country as a travel document

It had been our previous understanding, and the Malaysian government's position, that acquisition of a British overseas citizen (BOC) passport by a Malaysian citizen was sufficient justification for the deprivation of Malaysian citizenship.

However, on 21 February 2005 in the case of Lee Thean Hock, Judicial Review number 25-64-2004 the Penang (Malaysia) High Court took a different view. The Court drew a distinction between the acquisition of a British citizen passport, which could justify deprivation under [Article 24\(2\) of the Constitution](#), and the acquisition of a BOC passport, which could not.

The AIT took the view in the case of Lim, Teh and Ting (Appeal numbers IA/08131/2006, IA/08613/2006 and IA/09419) that neither [article 24 or article 27 \(procedure for deprivation\) of the Malaysian Constitution](#) gave reason to conclude that a BOC lost Malaysian nationality by acquiring or using a BOC passport. Loss of

citizenship is by order of the government, and not as a result of an individual's actions.

For the purposes of [section 4B\(2\)\(b\) of BNA 1981](#) it cannot be assumed that the holder of a BOC passport has lost any claim they might otherwise have had to Malaysian citizenship. You must request evidence from the Malaysian authorities that the applicant does not hold Malaysian citizenship and has not, after 4 July 2002, given up or done anything to prompt the deprivation of that citizenship. The person should not be assumed to have lost Malaysian nationality on acquisition of a BOC passport, unless the Malaysian authorities confirm that they have been deprived of that status by order.

## Applicants of Lebanese origin

The following general principles guide the consideration of applications from people of Lebanese descent:

- a person born in Lebanon since 19 January 1925 will be regarded as Lebanese unless they acquired at birth another nationality including British overseas citizenship and British protected person
- where an applicant or their grandparent would be regarded as Lebanese then the applicant would be regarded as Lebanese unless there is evidence that their father was not Lebanese
- a person who has the option to acquire Lebanese nationality following marriage to a Lebanese national or opting to become a Lebanese national following the creation of Lebanon will not be regarded as Lebanese

In order to proceed with applications from people of Lebanese descent confirmation will be required of the father and the paternal grandfather's dates and places of birth and confirmation of their nationality.

Where people who appear to be Lebanese nationals under the principles outlined above either hold or have acquired another nationality they will still be regarded as Lebanese nationals unless:

- the person was born outside Lebanon
- they would only be regarded as a Lebanese national on the basis that their father or grandfather was Lebanese
- they have not been registered as a Lebanese national and
- they acquired another nationality (at birth or subsequently)

## Renouncing, voluntarily relinquishing or losing by action or inaction another citizenship or nationality

If applicants have declared that they had another citizenship or nationality but renounced it or otherwise lost it, we will need to see evidence of renunciation or loss. This is because an applicant who renounced, voluntarily relinquished or lost through action or inaction any other citizenship or nationality after 4 July 2002 (or, if the



applicant is a British national (overseas) (BNO), 19 March 2009) would not be entitled to registration.

It is not relevant whether an applicant was, or claims to have been, unaware that any action or inaction on his part would lead to the loss of the other citizenship or nationality. The mere fact that this action or inaction led to the loss means that there is no registration entitlement.

Therefore, applicants will not be eligible for registration if, after 4 July 2002 or 19 March, a BNO they either:

- renounced that other citizenship or nationality (or voluntarily gave it up by some other active process equivalent to renunciation)
- lost another citizenship or nationality as a direct consequence of their obtaining or applying for a British passport
- lost another citizenship or nationality as a direct consequence of their failure to give up a British passport or renounce:
  - British overseas citizenship
  - British subject status
  - British protected person status

Applicants who, after 4 July 2002 (or 19 March 2009, if a BN(O)), have had another citizenship or nationality taken away from them in the following circumstances should not be considered to have renounced it, voluntarily relinquished it or lost it by action or inaction. The circumstances are:

- deprivation on the grounds that it was obtained by forgery or fraud
- deprivation on the grounds that the person is unfit to hold it because of character or security considerations
- a declaration was made that a grant of citizenship was null and void from the outset

## **Related content**

[Contents](#)