



Home Office

Nationality policy: adoption

Version 1.0

Adoption in the UK, British overseas territories and under the Hague Convention and adoption recognised in UK law.

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About this guidance

This guidance tells Home Office staff considering nationality applications and claims to British citizenship about adoption.

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 **1.0**
- published for Home Office staff on **14 July 2017**

Changes from last version of this guidance

This is new guidance.

Related content

[Contents](#)

Adoption

This guidance explains adoption in the UK and British overseas territories, the Commonwealth and countries recognised in the Hague convention for the purpose of considering nationality applications and claims to British citizenship.

Adoption in the UK before 1 January 1950

Under the Adoption Act 1926 a court had no power to make an adoption order in respect of a child who was not a British subject.

Adoption in the UK from 1 January 1950 to 31 December 1982

From 1 January 1950, the date on which the [Adoption of Children Act 1949](#) came into force, until 31 December 1982, a child of any nationality who was adopted in the UK became a citizen of the United Kingdom and Colonies (CUKC) from the day of the adoption if:

- the adopter was a CUKC
- in the case of joint adoption the male adopter was a CUKC

This provision was reiterated in section 19 of the Adoption Act 1958, and repealed by the [British Nationality Act 1981](#).

The implication of this was that a female CUKC could only pass on her citizenship to an adopted child if she was unmarried.

Adoption in the UK on or after 1 January 1983

Since 1 January 1983, [section 1\(5\) of the British Nationality Act 1981](#) confers British citizenship through adoption in the UK.

A child adopted in a court in the UK will be a British citizen if either:

- the adopter is a British citizen
- one of the adopters in the case of joint adoption is a British citizen

[Section 15\(5\) of the 1981 Act](#) has the same effect for adoptions in respect of British overseas territories citizenship. See British overseas territories citizenship auto claims

Adoption in the Channel Islands and Isle of Man

Section 19 of the Adoption Act 1958 was extended to the Channel Islands and Isle of Man ('the Islands') by the Adoption Act 1964.

Section 1(3) of the [Adoption Act 1964](#) applied to adoption orders made on or after 1 April 1959 as well as those made under the [Adoption Act 1964](#) which came into force on 16 July 1964. A child who was adopted in the Channel Islands or Isle of Man between 1 April 1959 and 16 July 1964 acquired CUKC on 16 July 1964. A child who was adopted after 16 July 1964 acquired CUKC from the date of the adoption order.

Since 1 January 1983 [section 1\(5\) of the British Nationality Act 1981](#) confers British citizenship through adoption in the Islands.

Adoption in the Falkland Islands on or after 1 January 1983

Since 1 January 1983 a child adopted by a court order in the Falkland Islands will be a British citizen from the date of the order if one of the adopters is a British citizen [British Nationality \(Falkland Islands\) Act 1983](#).

Adoption in a qualifying territory

On or after 21 May 2002, a foreign child adopted by an order of the court in any of the British overseas territories listed below will be a British citizen if either:

- the adopter is a British citizen
- one of the adopters in the case of joint adoption is a British citizen

This is under [section 1\(5\) of the British Nationality Act 1981](#), as amended by schedule 1 to the [British Overseas Territories Act 2002](#).

Qualifying territories are:

- Anguilla
- Bermuda
- British Antarctic Territory
- British Indian Ocean Territory
- Cayman Islands
- Gibraltar
- Montserrat
- the Pitcairn Islands
- St Helena
- Ascension and Tristan da Cunha
- South Georgia and The South Sandwich Islands
- the Turks and Caicos Islands
- the British Virgin Islands

Adoption under the terms of the 1993 Hague Convention on Intercountry Adoption ('the Hague Convention')

Where a foreign child has been adopted in any country or territory outside the UK under the terms of the Hague Convention, the child will be a British citizen from the date on which the Hague Convention adoption is affected if either:

- one of the adopters is a British citizen and habitually resident in the UK
- one of the adopters in the case of joint adoption is a British citizen and habitually resident in the UK

There is provision in the [British Nationality Act 1981](#) for a child to become a British overseas territories citizen through a Hague Convention adoption where the adoptive

parent is a British overseas territories citizen and habitually resident in a designated territory. However, no territories have been designated for this purpose. See [section 1\(5A\) of the British Nationality Act 1981](#), as inserted by [section 137 of the Adoption and Children Act 2002](#).

If an adoption has been made in accordance with the Convention, the adoptive parents must be able to provide a certificate issued by the authorities of the state in which the adoption took place. The certificate must indicate that the adoption has been effected under the Hague Convention.

The certificate will normally include information about where the adoptive parents were habitually resident at the time of the adoption. If it does not, this must be established.

Habitual residence

Habitual residence is a legal concept which is subject to interpretation by the courts. There is no statutory definition of the term. Whether someone is habitually resident in a particular place will depend upon all the circumstances and facts of an individual case.

Habitual residence is concerned with the quality of residence in a particular place rather than its duration. Account must be taken of the person's intention and reasonable expectations in adopting the particular place of residence, and the location of their property and family members and other 'durable ties' such as employment and study commitments. Habitual residence may be established after a long or short period of actual physical presence, and irrespective of any immigration restrictions on the maximum length of stay. A person may become habitually resident in one country whilst still remaining so, because of continuing ties, in another.

The concept is closely related to, but may not be identical with, 'ordinary residence'

If the adopter is habitually resident in the UK Department for Education (DfE) will have been satisfied about the parent's habitual residence before authorising the adoption.

Other adoptions

A child who was adopted before 1 January 1983 outside the UK and Islands by a CUKC did not automatically acquire CUKC status. The [Adoption Act 1968](#) included a provision to extend the Adoption Act 1958 so that certain overseas adoptions would be recognised for nationality purposes. However, that particular provision of the act was not brought into force and was repealed by the [Children Act 1975](#).

For children under the age of 18, who did not acquire British citizenship automatically as a result of their adoption, their route to British citizenship will usually be by registration under [section 3\(1\) of the British Nationality Act 1981](#). See: Registration as a British citizen: children.

Overseas adoptions recognised in the UK

If you are considering an application for registration under [section 3\(1\)](#) for an adopted child, you must check if the adoption is recognised by UK law. For adoptions before 3 January 2014 only adoption orders effected in countries named on the [Adoption \(Designation of Overseas Adoptions\) Order](#) ('the designated list') are recognised in the UK

On 3 January 2014 the designated list was revoked and replaced by:

- the Adoption (Recognition of Overseas Adoptions) Order 2013
- the [Adoption \(Recognition of Overseas Adoptions\) \(Scotland\) Regulations 2013](#) and the [Adoption \(Recognition of Overseas Adoptions\) \(Scotland\) Amendment Regulations 2013](#) (the '2013 Scottish Regulations')

Those orders and regulations list the countries where domestic adoption orders made on or after 3 January 2014 will be recognised by UK law.

If a child was adopted in a country which was not listed in the designated list, the 2013 Order or the 2013 Scottish regulations you must only consider registering in exceptional circumstances.

Related content

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