An Act to make fresh provision about citizenship and nationality, and to amend the Immigration Act 1971 as regards the right of abode in the United Kingdom.

[30th October 1981]

PART I

BRITISH CITIZENSHIP

Acquisition after commencement

1.— Acquisition by birth or adoption.

(1) A person born in the United Kingdom after commencement [1], or in a qualifying territory on or after the appointed day, shall be a British citizen if at the time of the birth his father or mother is—

(a) a British citizen; or

(b) settled in the United Kingdom [2].

(2) A new-born infant who, after commencement, is found abandoned in the United Kingdom [3], or on or after the appointed day is found abandoned in a qualifying territory, shall, unless the contrary is shown, be deemed for the purposes of subsection (1)—

(a) to have been born in the United Kingdom after commencement [ or in that territory ] ; and

(b) to have been born to a parent who at the time of the birth was a British citizen or settled in the United Kingdom [ or that territory ] .

(3) A person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1) or (2) shall be entitled to be registered as a British citizen if, while he is a minor—

(a) his father or mother becomes a British citizen or becomes settled in the United Kingdom; and

(b) an application is made for his registration as a British citizen.

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1 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.1(2)(a) (May 21, 2002)
2 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.1(2)(b) (May 21, 2002)
3 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.1(3)(a) (May 21, 2002)
4 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.1(3)(b) (May 21, 2002)
5 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.1(3)(c) (May 21, 2002)
A person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1) or (2) shall be entitled, on an application for his registration as a British citizen made at any time after he has attained the age of ten years, to be registered as such a citizen if, as regards each of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year does not exceed 90.


(a) any court in the United Kingdom [or, on or after the appointed day, any court in a qualifying territory] makes an order authorising the adoption of a minor who is not a British citizen; or

(b) a minor who is not a British citizen is adopted under a Convention adoption [effected under the law of a country or territory outside the United Kingdom],

that minor shall, if the requirements of subsection (5A) are met, be a British citizen as from the date on which the order is made or the Convention adoption is effected, as the case may be.

(5A) Those requirements are that on the date on which the order is made or the Convention adoption is effected (as the case may be)—

(a) the adopter or, in the case of a joint adoption, one of the adopters is a British citizen; and

(b) in a case within subsection (5)(b), the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in the United Kingdom [or in a designated territory].

(6) Where an order [or a Convention adoption] in consequence of which any person became a British citizen by virtue of subsection (5) ceases to have effect, whether on annulment or otherwise, the cesser shall not affect the status of that person as a British citizen.

(7) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (4) treat the person to whom the application relates as fulfilling the requirement specified in that subsection although, as regards any one or more of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year or each of the years in question exceeds 90.

(8) In this section and elsewhere in this Act “settled” has the meaning given by section 50 [...].

2.— Acquisition by descent.

(1) A person born outside the United Kingdom [and the qualifying territories] after commencement shall be a British citizen if at the time of the birth his father or mother—

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6 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.1(4) (June 1, 2003 being the date the substitution of 1981 c.61 s.1(5) by 1999 c.18 s.7 comes into force)
7 Words inserted by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.137(4)(a) (December 30, 2005)
8 Words inserted by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.137(4)(b) (December 30, 2005)
9 S.1(5) and (5A) substituted for s.1(5) by Adoption (Intercountry Aspects) Act 1999 c. 18 s.7(1) (June 1, 2003)
10 Words inserted by Adoption (Intercountry Aspects) Act 1999 c. 18 s.7(2) (June 1, 2003)
11 Words repealed by Adoption and Children Act 2002 c. 38 Sch.5 para.1 (December 30, 2005 as SI 2005/2897)
12 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.2(2)(a) (May 21, 2002)
(a) is a British citizen otherwise than by descent; or
(b) is a British citizen and is serving outside the United Kingdom [and the qualifying territories]13 in service to which this paragraph applies, his or her recruitment for that service having taken place in the United Kingdom [or a qualifying territory]13; or
(c) is a British citizen and is serving outside the United Kingdom [and the qualifying territories]14 in service under a Community institution, his or her recruitment for that service having taken place in a country which at the time of the recruitment was a member of the Communities.

(2) Paragraph (b) of subsection (1) applies to—
   (a) Crown service under the government of the United Kingdom [or of a qualifying territory]15; and
   (b) service of any description for the time being designated under subsection (3).

(3) For the purposes of this section the Secretary of State may by order made by statutory instrument designate any description of service which he considers to be closely associated with the activities outside the United Kingdom [and the qualifying territories]16 of Her Majesty's government in the United Kingdom [or in a qualifying territory]17.

(4) Any order made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

3.— Acquisition by registration: minors.

(1) If while a person is a minor an application is made for his registration as a British citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

(2) A person born outside the United Kingdom [and the qualifying territories]18 shall be entitled, on an application for his registration as a British citizen made within the period of twelve months from the date of birth, to be registered as such a citizen if the requirements specified in subsection (3) or, in the case of a person born stateless, the requirements specified in paragraphs (a) and (b) of that subsection, are fulfilled in the case of either that person's father or his mother ("the parent in question").

(3) The requirements referred to in subsection (2) are—
   (a) that the parent in question was a British citizen by descent at the time of the birth; and
   (b) that the father or mother of the parent in question—
      (i) was a British citizen otherwise than by descent at the time of the birth of the parent in question; or
      (ii) became a British citizen otherwise than by descent at commencement, or would have become such a citizen otherwise than by descent at commencement but for his or her death; and

13 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.2(2)(b) (May 21, 2002)
14 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.2(2)(c) (May 21, 2002)
15 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.2(3) (May 21, 2002)
16 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.2(4)(a) (May 21, 2002)
17 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.2(4)(b) (May 21, 2002)
18 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.3(2) (May 21, 2002)
(c) that, as regards some period of three years ending with a date not later than the date of the birth—
   (i) the parent in question was in the United Kingdom [ or a qualifying territory] \(^{19}\) at the beginning of that period; and
   (ii) the number of days on which the parent in question was absent from the United Kingdom [ and the qualifying territories] \(^{20}\) in that period does not exceed 270.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat subsection (2) as if the reference to twelve months were a reference to six years.

(5) A person born outside the United Kingdom [ and the qualifying territories] \(^{21}\) shall be entitled, on an application for his registration as a British citizen made while he is a minor, to be registered as such a citizen if the following requirements are satisfied, namely—
   (a) that at the time of that person's birth his father or mother was a British citizen by descent; and
   (b) subject to subsection (6), that that person and his father and mother were in the United Kingdom [ or a qualifying territory] \(^{22}\) at the beginning of the period of three years ending with the date of the application and that, in the case of each of them, the number of days on which the person in question was absent from the United Kingdom [ and the qualifying territories] \(^{22}\) in that period does not exceed 270; and
   (c) subject to subsection (6), that the consent of his father and mother to the registration has been signified in the prescribed manner.

(6) In the case of an application under subsection (5) for the registration of a person as a British citizen—
   (a) if his father or mother died, or their marriage [or civil partnership] \(^{23}\) was terminated, on or before the date of the application, or his father and mother were legally separated on that date, the references to his father and mother in paragraph (b) of that subsection shall be read either as references to his father or as references to his mother; [ and] \(^{24}\)
   (b) if his father or mother died on or before that date, the reference to his father and mother in paragraph (c) of that subsection shall be read as a reference to either of them [ .] \(^{24}\)
   (c) […] \(^{24}\)

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\(^{19}\) Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.3(3)(a) (May 21, 2002)

\(^{20}\) Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.3(3)(b) (May 21, 2002)

\(^{21}\) Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.3(4)(b) (May 21, 2002)

\(^{22}\) Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.3(4)(a) (May 21, 2002)

\(^{23}\) Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.71 (December 5, 2005)

\(^{24}\) Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.9(2)(c) (July 1, 2006 as SI 2006/1498)
4.— Acquisition by registration: [BRITISH OVERSEAS TERRITORIES CITIZENS] etc.

(1) This section applies to any person who is a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a British subject under this Act or a British protected person.

(2) A person to whom this section applies shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if the following requirements are satisfied in the case of that person, namely—

   (a) subject to subsection (3), that he was in the United Kingdom at the beginning of the period of five years ending with the date of the application and that the number of days on which he was absent from the United Kingdom in that period does not exceed 450; and
   (b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and
   (c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and
   (d) that he was not at any time in the period of five years so ending in the United Kingdom in breach of the immigration laws.

(3) So much of subsection (2)(a) as requires the person in question to have been in the United Kingdom at the beginning of the period there mentioned shall not apply in relation to a person who was settled in the United Kingdom immediately before commencement.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (2) do all or any of the following things, namely—

   (a) treat the person to whom the application relates as fulfilling the requirement specified in subsection (2)(a) or subsection (2)(b), or both, although the number of days on which he was absent from the United Kingdom in the period there mentioned exceeds the number there mentioned;
   (b) disregard any such restriction as is mentioned in subsection (2)(c), not being a restriction to which that person was subject on the date of the application;
   (c) treat that person as fulfilling the requirement specified in subsection (2)(d) although he was in the United Kingdom in breach of the immigration laws in the period there mentioned.

(5) If, on an application for registration as a British citizen made by a person to whom this section applies, the Secretary of State is satisfied that the applicant has at any time served in service to which this subsection applies, he may, if he thinks fit in the special circumstances of the applicant’s case, cause him to be registered as such a citizen.

25 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
26 Words inserted by S.I. 1986/948, art. 7(2)
(6) Subsection (5) applies to—
   (a) Crown service under the government of a [British overseas territory]27; and
   (b) paid or unpaid service (not falling within paragraph (a)) as a member of any body
       established by law in a [British overseas territory]27 members of which are appointed by
       or on behalf of the Crown.

[4A Acquisition by registration: further provision for British overseas territories citizens]

(1) If an application is made to register as a British citizen a person who is a British overseas
territories citizen, the Secretary of State may if he thinks fit cause the person to be so registered.

(2) Subsection (1) does not apply in the case of a British overseas territories citizen who—
   (a) is such a citizen by virtue only of a connection with the Sovereign Base Areas of
       Akrotiri and Dhekelia; or
   (b) has ceased to be a British citizen as a result of a declaration of renunciation.

[4B Acquisition by registration: certain persons without other citizenship]

(1) This section applies to a person who has the status of—
   (a) British Overseas citizen,
   (b) British subject under this Act, or
   (c) British protected person.

(2) A person to whom this section applies shall be entitled to be registered as a British citizen if—
   (a) he applies for registration under this section,
   (b) the Secretary of State is satisfied that the person does not have, apart from the status
       mentioned in subsection (1), any citizenship or nationality, and
   (c) the Secretary of State is satisfied that the person has not after 4th July 2002 renounced,
       voluntarily relinquished or lost through action or inaction any citizenship or nationality.

[4C Acquisition by registration: certain persons born between 1961 and 1983]

(1) A person is entitled to be registered as a British citizen if—
   (a) he applies for registration under this section, and
   (b) he satisfies each of the following conditions.

(2) The first condition is that the applicant was born after 7th February 1961 and before 1st January
    1983.

(3) The second condition is that the applicant would at some time before 1st January 1983 have
    become a citizen of the United Kingdom and Colonies by virtue of section 5 of the British Nationality
    Act 1948 (c. 56) if that section had provided for citizenship by descent from a mother in the same
    terms as it provided for citizenship by descent from a father.

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27 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
28 Added by British Overseas Territories Act 2002 c. 8 s.4 (May 21, 2002)
29 Added by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.12(1) (April 30, 2003)
(4) The third condition is that immediately before 1st January 1983 the applicant would have had the right of abode in the United Kingdom by virtue of section 2 of the Immigration Act 1971 (c. 77) had he become a citizen of the United Kingdom and Colonies as described in subsection (3) above.

5. Acquisition by registration: nationals for purposes of the Community Treaties. A [British overseas territories citizen] who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties shall be entitled to be registered as a British citizen if an application is made for his registration as such a citizen.

6.— Acquisition by naturalisation.

(1) If, on an application for naturalisation as a British citizen made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(2) If, on an application for naturalisation as a British citizen made by a person of full age and capacity who on the date of the application is married to a British citizen [ or is the civil partner of a British citizen], the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

Acquisition after commencement: special cases

7.— […]

8.— […]

9.— […]

10.— Registration following renunciation of citizenship of U.K. and Colonies.

(1) Subject to subsection (3), a person shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if immediately before commencement he would (had he applied for it) have been entitled under section 1(1) of the British Nationality Act 1964 (resumption of citizenship) to be registered as a citizen of the United Kingdom and Colonies by

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30 Added by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.13(1) (April 30, 2003)
31 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
32 Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.72 (December 5, 2005)
33 Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.2 para.1(a) (November 7, 2002)
34 Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.2 para.1(b) (November 7, 2002)
35 Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.2 para.1(c) (November 7, 2002)
virtue of having an appropriate qualifying connection with the United Kingdom or […] 36 by virtue of having been married before commencement to a person who has, or would if living have, such a connection.

(2) On an application for his registration as a British citizen made by a person of full capacity who had before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, the Secretary of State may, if he thinks fit, cause that person to be registered as a British citizen if that person—
   (a) has an appropriate qualifying connection with the United Kingdom; or
   (b) […] 36 has been married to […] or has been the civil partner of.] 37 a person who has, or would if living have, such a connection.

(3) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(4) For the purposes of this section a person shall be taken to have an appropriate qualifying connection with the United Kingdom if he, his father or his father’s father—
   (a) was born in the United Kingdom; or
   (b) is or was a person naturalised in the United Kingdom; or
   (c) was registered as a citizen of the United Kingdom and Colonies in the United Kingdom or in a country which at the time was mentioned in section 1(3) of the 1948 Act.

Amendments Pending
Pt I s. 10(1): words repealed (date to be announced) by 2002 c. 41 Pt I s. 5(a)
Pt I s. 10(2): words repealed (date to be announced) by 2002 c. 41 Pt I s. 5(a)

Acquisition at commencement

11.— Citizens of U.K. and Colonies who are to become British citizens at commencement.

(1) Subject to subsection (2), a person who immediately before commencement—
   (a) was a citizen of the United Kingdom and Colonies; and
   (b) had the right of abode in the United Kingdom under the Immigration Act 1971 as then in force,
shall at commencement become a British citizen.

(2) A person who was registered as a citizen of the United Kingdom and Colonies under section 1 of the British Nationality (No. 2) Act 1964 (stateless persons) on the ground mentioned in subsection (1)(a) of that section (namely that his mother was a citizen of the United Kingdom and Colonies at the time when he was born) shall not become a British citizen under subsection (1) unless—
   (a) his mother becomes a British citizen under subsection (1) or would have done so but for her death; or

36 Words repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.9 para.1 (April 1, 2003 as SI 2003/754)
37 Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.73 (December 5, 2005)
immediately before commencement he had the right of abode in the United Kingdom by virtue of section 2(1)(c) of the Immigration Act 1971 as then in force (settlement in United Kingdom, combined with five or more years' ordinary residence there as a citizen of the United Kingdom and Colonies).

(3) A person who—

(a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of having been registered under subsection (6) of section 12 of the 1948 Act (British subjects before commencement of 1948 Act becoming citizens of United Kingdom and Colonies) under arrangements made by virtue of subsection (7) of that section (registration in independent Commonwealth country by United Kingdom High Commissioner); and

(b) was so registered on an application under the said subsection (6) based on the applicant's descent in the male line from a person ("the relevant person") possessing one of the qualifications specified in subsection (1)(a) and (b) of that section (birth or naturalisation in the United Kingdom and Colonies),

shall at commencement become a British citizen if the relevant person was born or naturalised in the United Kingdom.

Renunciation and resumption

12.— Renunciation.

(1) If any British citizen of full age and capacity makes in the prescribed manner a declaration of renunciation of British citizenship, then, subject to subsections (3) and (4), the Secretary of State shall cause the declaration to be registered.

(2) On the registration of a declaration made in pursuance of this section the person who made it shall cease to be a British citizen.

(3) A declaration made by a person in pursuance of this section shall not be registered unless the Secretary of State is satisfied that the person who made it will after the registration have or acquire some citizenship or nationality other than British citizenship; and if that person does not have any such citizenship or nationality on the date of registration and does not acquire some such citizenship or nationality within six months from that date, he shall be, and be deemed to have remained, a British citizen notwithstanding the registration.

(4) The Secretary of State may withhold registration of any declaration made in pursuance of this section if it is made during any war in which Her Majesty may be engaged in right of Her Majesty's government in the United Kingdom.

(5) For the purposes of this section any person who has been married [, or has formed a civil partnership,]38 shall be deemed to be of full age.

38 Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.74 (December 5, 2005)
13.— Resumption.

(1) Subject to subsection (2), a person who has ceased to be a British citizen as a result of a declaration of renunciation shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if—

(a) he is of full capacity; and

(b) his renunciation of British citizenship was necessary to enable him to retain or acquire some other citizenship or nationality.

(2) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(3) If a person of full capacity who has ceased to be a British citizen as a result of a declaration of renunciation (for whatever reason made) makes an application for his registration as such a citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

Supplementary

14.— Meaning of British citizen “by descent”.

(1) For the purposes of this Act a British citizen is a British citizen “by descent” if and only if—

(a) he is a person born outside the United Kingdom after commencement who is a British citizen by virtue of section 2(1)(a) only or by virtue of registration under section 3(2) or 9; or

(b) subject to subsection (2), he is a person born outside the United Kingdom before commencement who became a British citizen at commencement and immediately before commencement—

(i) was a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent); or

(ii) was a person who, under any provision of the British Nationality Acts 1948 to 1965, was deemed for the purposes of the proviso to section 5(1) of the 1948 Act to be a citizen of the United Kingdom and Colonies by descent only, or would have been so deemed if male; or

(iii) had the right of abode in the United Kingdom by virtue only of paragraph (b) of subsection (1) of section 2 of the Immigration Act 1971 as then in force (connection with United Kingdom through parent or grandparent), or by virtue only of that paragraph and paragraph (c) of that subsection (settlement in United Kingdom with five years' ordinary residence there), or by virtue only of being or having been the wife of a person who immediately before commencement had that right by virtue only of the said paragraph (b) or the said paragraphs (b) and (c); or

(iv) being a woman, was a citizen of the United Kingdom and Colonies as a result of her registration as such a citizen under section 6(2) of the 1948 Act by virtue of having been married to a man who at commencement became a British citizen by descent or would have done so but for his having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or

(c) he is a British citizen by virtue of registration under section 3(1) and either—

(i) his father or mother was a British citizen at the time of the birth; or
(ii) his father or mother was a citizen of the United Kingdom and Colonies at that time and became a British citizen at commencement, or would have done so but for his or her death; or

(d) he is a British citizen by virtue of registration under [section 4B, 4C or 5]; or

(e) subject to subsection (2), being a woman born outside the United Kingdom before commencement, she is a British citizen as a result of her registration as such a citizen under section 8 by virtue of being or having been married to a man who at commencement became a British citizen by descent or would have done so but for his having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or

(f) he is a British citizen by virtue of registration under section 10 who, having before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, would, if he had not so ceased, have at commencement become a British citizen by descent by virtue of paragraph (b); or

(g) he is a British citizen by virtue of registration under section 13 who, immediately before he ceased to be a British citizen as a result of a declaration of renunciation, was such a citizen by descent; or

(h) he is a person born in a British overseas territory after commencement who is a British citizen by virtue of paragraph 2 of Schedule 2.

(2) A person born outside the United Kingdom before commencement is not a British citizen “by descent” by virtue of subsection (1)(b) or (e) if his father was at the time of his birth serving outside the United Kingdom—

(a) in service of a description mentioned in subsection (3), his recruitment for the service in question having taken place in the United Kingdom; or

(b) in service under a Community institution, his recruitment for that service having taken place in a country which at the time of the recruitment was a member of the Communities.

(3) The descriptions of service referred to in subsection (2) are—

(a) Crown service under the government of the United Kingdom; and

(b) service of any description at any time designated under section 2(3).

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39 Words inserted by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.13(2) (April 30, 2003)

40 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
PART II

[BRITISH OVERSEAS TERRITORIES CITIZENSHIP] 41

Acquisition after commencement

15.— Acquisition by birth or adoption.

(1) A person born in a [British overseas territory] 42 after commencement shall be a [British overseas territories citizen] 43 if at the time of the birth his father or mother is—
   (a) a [British overseas territories citizen] 43 ; or
   (b) settled in a [British overseas territory] 42 .

(2) A new-born infant who, after commencement, is found abandoned in a [British overseas territory] 42 shall, unless the contrary is shown, be deemed for the purposes of subsection (1)—
   (a) to have been born in that territory after commencement; and
   (b) to have been born to a parent who at the time of the birth was a [British overseas territories citizen] 43 or settled in a [British overseas territory] 42 .

(3) A person born in a [British overseas territory] 42 after commencement who is not a [British overseas territories citizen] 43 by virtue of subsection (1) or (2) shall be entitled to be registered as such a citizen if, while he is a minor—
   (a) his father or mother becomes such a citizen or becomes settled in a [British overseas territory] 42 ; and
   (b) an application is made for his registration as such a citizen.

(4) A person born in a [British overseas territory] 42 after commencement who is not a [British overseas territories citizen] 43 by virtue of subsection (1) or (2) shall be entitled, on an application for his registration as a [British overseas territories citizen] 43 made at any time after he has attained the age of ten years, to be registered as such a citizen if, as regards each of the first ten years of that person’s life, the number of days on which he was absent from that territory in that year does not exceed 90.

(5) Where after commencement an order authorising the adoption of a minor who is not a [British overseas territories citizen] 43 is made by a court in any [British overseas territory] 42 , he shall be a [British overseas territories citizen] 43 as from the date on which the order is made if the adopter or, in the case of a joint adoption, one of the adopters, is a [British overseas territories citizen] 43 on that date.

[ (5A) Where—
   (a) a minor who is not a British overseas territories citizen is adopted under a Convention adoption,
   (b) on the date on which the adoption is effected—
      (i) the adopter or, in the case of a joint adoption, one of the adopters is a British overseas territories citizen, and

41 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
42 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
43 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
(ii) the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in a designated territory, and

(c) the Convention adoption is effected under the law of a country or territory outside the designated territory,

the minor shall be a British overseas territories citizen as from that date.  

(6) Where an order [ or a Convention adoption]\(^45\) in consequence of which any person became a [British overseas territories citizen]\(^43\) by virtue of subsection (5) ceases to have effect, whether on annulment or otherwise, the cesser shall not affect the status of that person as such a citizen.

(7) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (4) treat the person to whom the application relates as fulfilling the requirements specified in that subsection although, as regards any one or more of the first ten years of that person's life, the number of days on which he was absent from the [British overseas territory]\(^42\) there mentioned in that year or each of the years in question exceeds 90.

16.— Acquisition by descent.

(1) A person born outside the [British overseas territories]\(^46\) after commencement shall be a [British overseas territories citizen]\(^47\) if at the time of the birth his father or mother—

(a) is such a citizen otherwise than by descent; or

(b) is such a citizen and is serving outside the [British overseas territories]\(^46\) in service to which this paragraph applies, his or her recruitment for that service having taken place in a [British overseas territory]\(^46\).

(2) Paragraph (b) of subsection (1) applies to—

(a) Crown service under the government of a [British overseas territory]\(^46\); and

(b) service of any description for the time being designated under subsection (3).

(3) For the purposes of this section the Secretary of State may by order made by statutory instrument designate any description of service which he considers to be closely associated with the activities outside the [British overseas territories]\(^46\) of the government of any [British overseas territory]\(^46\).

(4) Any order made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

17.— Acquisition by registration: minors.

(1) If while a person is a minor an application is made for his registration as a [British overseas territories citizen]\(^48\) the Secretary of State may, if the thinks fit, cause him to be registered as such a citizen.

\(^44\) Added by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.137(5)(a) (December 30, 2005)
\(^45\) Words inserted by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.137(5)(b) (December 30, 2005)
\(^46\) Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
\(^47\) Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
\(^48\) Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
(2) A person born outside the [British overseas territories] shall be entitled, on an application for his registration as a [British overseas territories citizen] made within the period of twelve months from the date of the birth, to be registered as such a citizen if the requirements specified in subsection (3) or, in the case of a person born stateless, the requirements specified in paragraphs (a) and (b) of that subsection, are fulfilled in the case of either that person's father or his mother (“the parent in question”).

(3) The requirements referred to in subsection (2) are—

(a) that the parent in question was a [British overseas territories citizen] by descent at the time of the birth; and

(b) that the father or mother of the parent in question—

(i) was a [British overseas territories citizen] otherwise than by descent at the time of the birth of the parent in question; or

(ii) became a [British overseas territories citizen] otherwise than by descent at commencement, or would have become such a citizen otherwise than by descent at commencement but for his or her death; and

(c) that, as regards some period of three years ending with a date not later than the date of the birth—

(i) the parent in question was in a [British overseas territory] at the beginning of that period; and

(ii) the number of days on which the parent in question was absent from that territory in that period does not exceed 270.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat subsection (2) as if the reference to twelve months were a reference to six years.

(5) A person born outside the [British overseas territories] shall be entitled, and on application for his registration as a [British overseas territories citizen] made while he is a minor, to be registered as such a citizen if the following requirements are satisfied, namely—

(a) that at the time of that person's birth his father or mother was a [British overseas territories citizen] by descent; and

(b) subject to subsection (6), that that person and his father and mother were in one and the same [British overseas territory] (no matter which) at the beginning of the period of three years ending with the date of the application and that, in the case of each of them, the number of days on which the person in question was absent from the last-mentioned territory in that period does not exceed 270; and

(c) subject to subsection (6), that the consent of his father and mother to the registration has been signified in the prescribed manner.

(6) In the case of an application under subsection (5) for the registration of a person as a [British overseas territories citizen]—

(a) if his father or mother died, or their marriage [ or civil partnership] was terminated, on or before the date of the application, or his father and mother were legally separated on that date, the references to his father and mother in paragraph (b) of that subsection shall be read either as references to his father or as references to his mother; [ and]  

49 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
50 Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.75 (December 5, 2005)
51 Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.9(3)(c) (July 1, 2006 as SI 2006/1498)
(b) if his father or mother died on or before that date, the reference to his father and mother in paragraph (c) of that subsection shall be read as a reference to either of them.

Amendments Pending
Pt II s. 17(6)(c): repealed (date to be announced) by 2002 c. 41 Sch. 9 para. 1

18.— Acquisition by naturalisation.

(1) If, on an application for naturalisation as a [British overseas territories citizen] made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(2) If, on an application for naturalisation as a [British overseas territories citizen] made by a person of full age and capacity who on the date of the application is married to such a citizen or is the civil partner of such a citizen, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(3) Every application under this section shall specify the [British overseas territory] which is to be treated as the relevant territory for the purposes of that application; and, in relation to any such application, references in Schedule 1 to the relevant territory shall be construed accordingly.

Acquisition after commencement: special cases

19.— […]

20.— […]

21.— […]

22.— Right to registration replacing right to resume citizenship of U.K. and Colonies.

(1) Subject to subsection (3), a person shall be entitled, on an application for his registration as a [British overseas territories citizen], to be registered as such a citizen if immediately before commencement he would (had he applied for it) have been entitled under section 1(1) of the British Nationality Act 1964 (resumption of citizenship) to be registered as a citizen of the United Kingdom.
and Colonies by virtue of having an appropriate qualifying connection with a [British overseas territory] \(^{59}\) or [...] \(^{60}\) by virtue of having been married before commencement to a person who has, or would if living have, such a connection.

(2) On an application for his registration as a [British overseas territories citizen] \(^{58}\) made by a person of full capacity who had before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, the Secretary of State may, if he thinks fit, cause that person to be registered as a [British overseas territories citizen] \(^{58}\) if that person—

(a) has an appropriate qualifying connection with a [British overseas territory] \(^{59}\); or
(b) [...] \(^{60}\) has been married to [...], or has been the civil partner of, a person who has, or would if living have, such a connection.

(3) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(4) For the purposes of this section a person shall be taken to have an appropriate qualifying connection with a [British overseas territory] \(^{59}\) if he, his father or his father's father—

(a) was born in that territory; or
(b) is or was a person naturalised in that territory; or
(c) was registered as a citizen of the United Kingdom and Colonies in that territory; or
(d) became a British subject by reason of the annexation of any territory included in that territory.

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**Amendments Pending**

Pt II s. 22(1): words repealed (date to be announced) by 2002 c. 41 Pt 1 s. 5(b)
Pt II s. 22(2): words repealed (date to be announced) by 2002 c. 41 Pt 1 s. 5(b)

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**Acquisition at commencement**

23.— **Citizens of U.K. and Colonies who are to become [British overseas territories citizens]** \(^{62}\) at commencement.

(1) A person shall at commencement become a [British overseas territories citizen] \(^{62}\) if—

(a) immediately before commencement he was a citizen of the United Kingdom and Colonies who had that citizenship by his birth, naturalisation or registration in a [British overseas territory] \(^{63}\); or
(b) he was immediately before commencement a citizen of the United Kingdom and Colonies, and was born to a parent—

(i) who at the time of the birth (“the material time”) was a citizen of the United Kingdom and Colonies; and

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\(^{59}\) Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)

\(^{60}\) Words repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.9 para.1 (April 1, 2003 as SI 2003/754)

\(^{61}\) Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.77 (December 5, 2005)

\(^{62}\) Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)

\(^{63}\) Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
(ii) who either had that citizenship at the material time by his birth, naturalisation or registration in a British overseas territory or was himself born to a parent who at the time of that birth so had that citizenship; or
(c) being a woman, she was immediately before commencement a citizen of the United Kingdom and Colonies and either was then, or had at any time been, the wife of a man who under paragraph (a) or (b) becomes a British overseas territories citizen at commencement or would have done so but for his death.

(2) A person shall at commencement become a British overseas territories citizen if—
(a) immediately before commencement he was a citizen of the United Kingdom and Colonies by virtue of registration under section 7 of the 1948 Act (minor children) or section 1 of the British Nationality (No. 2) Act 1964 (stateless persons); and
(b) he was so registered otherwise than in a British overseas territory; and
(c) his father or mother (in the case of a person registered under the said section 7) or his mother (in the case of a person registered under the said section 1)—
   (i) was a citizen of the United Kingdom and Colonies at the time of the registration or would have been such a citizen at that time but for his or her death; and
   (ii) becomes a British overseas territories citizen at commencement or would have done so but for his or her death.

(3) A person who—
   (a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of having been registered under subsection (6) of section 12 of the 1948 Act (British subjects before commencement of 1948 Act becoming citizens of United Kingdom and Colonies) otherwise than in a British overseas territory; and
   (b) was so registered on an application under that subsection based on the applicant’s descent in the male line from a person (“the relevant person”) possessing one of the qualifications specified in subsection (1) of that section (birth or naturalisation in the United Kingdom and Colonies, or acquisition of the status of British subject by reason of annexation of territory),
shall at commencement become a British overseas territories citizen if the relevant person—
   (i) was born or naturalised in a British overseas territory; or
   (ii) became a British subject by reason of the annexation of any territory included in a British overseas territory.

(4) A person who—
   (a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of registration under section 1 of the British Nationality Act 1964 (resumption of citizenship); and
   (b) was so registered otherwise than in a British overseas territory; and
   (c) was so registered by virtue of having an appropriate qualifying connection with a British overseas territory or, if a woman, by virtue of having been married to a person who at the time of the registration had or would, if then living, have had such a connection,
shall at commencement become a British overseas territories citizen.

(5) For the purposes of subsection (4) a person shall be taken to have an appropriate qualifying connection with a British overseas territory if he, his father or his father’s father—
   (a) was born in a British overseas territory; or
   (b) is or was a person naturalised in a British overseas territory; or
was registered as a citizen of the United Kingdom and Colonies in a [British overseas territory]63; or
(d) became a British subject by reason of the annexation of any territory included in a
[British overseas territory]63.

(6) For the purposes of subsection (1)(b) references to citizenship of the United Kingdom and
Colonies shall, in relation to a time before the year 1949, be construed as references to British
nationality.

Renunciation and resumption

24. Renunciation and resumption.
The provisions of sections 12 and 13 shall apply in relation to [British overseas territories citizens]64
and [British overseas territories citizenship]64 as they apply in relation to British citizens and British
citizenship.

Supplementary

25.— Meaning of [British overseas territories citizen]65 “by descent”.
(1) For the purposes of this Act a [British overseas territories citizen]65 is such a citizen “by
descent” if and only if—
(a) he is a person born outside the [British overseas territories]66 after commencement
who is a [British overseas territories citizen]65 by virtue of section 16(1)(a) only or by virtue
of registration under section 17(2) or 21; or
(b) subject to subsection (2), he is a person born outside the [British overseas territories]66
before commencement who became a [British overseas territories citizen]65 at
commencement and immediately before commencement—
(i) was a citizen of the United Kingdom and Colonies by virtue of section 5 of the
1948 Act (citizenship by descent); or
(ii) was a person who, under any provision of the British Nationality Acts 1948 to
1965, was deemed for the purposes of the proviso to section 5(1) of the 1948 Act
to be a citizen of the United Kingdom and Colonies by descent only, or would have
been so deemed if male; or
(c) he is a [British overseas territories citizen]65 by virtue of registration under section
17(1) and either—
(i) his father or mother was a [British overseas territories citizen]65 at the time of
the birth; or
(ii) his father or mother was a citizen of the United Kingdom and Colonies at that
time and became a [British overseas territories citizen]65 at commencement, or
would have done so but for his or her death; or

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64 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
65 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
66 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
(d) subject to subsection (2), he is a person born outside the British overseas territories before commencement who became a British overseas territories citizen at commencement under section 23(1)(b) only; or
(e) subject to subsection (2), being a woman, she became a British overseas territories citizen at commencement under section 23(1)(c) only, and did so only by virtue of having been, immediately before commencement or earlier, the wife of a man who immediately after commencement was, or would but for his death have been, a British overseas territories citizen by descent by virtue of paragraph (b) or (d) of this subsection; or
(f) subject to subsection (2), being a woman born outside the British overseas territories before commencement, she is a British overseas territories citizen as a result of her registration as such a citizen under section 20 by virtue of being or having been married to a man who at commencement became such a citizen by descent or would have done so but for his having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or
(g) he is a British overseas territories citizen by virtue of registration under section 22 who, having before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, would, if he had not so ceased, have at commencement become a British overseas territories citizen by descent by virtue of paragraph (b), (d) or (e);
(h) he is a British overseas territories citizen by virtue of registration under section 13 (as applied by section 24) who, immediately before he ceased to be a British overseas territories citizen as a result of a declaration of renunciation, was such a citizen by descent; or
(i) he is a person born in the United Kingdom after commencement who is a British overseas territories citizen by virtue of paragraph 1 of Schedule 2.

(2) A person born outside the British overseas territories before commencement is not a British overseas territories citizen “by descent” by virtue of subsection (1)(b), (d), (e) or (f) if his father was at the time of his birth serving outside the British overseas territories in service of a description mentioned in subsection (3), his recruitment for the service in question having taken place in a British overseas territory.

(3) The descriptions of service referred to in subsection (2) are—
(a) Crown service under the government of a British overseas territory; and
(b) service of any description at any time designated under section 16(3).

PART III

BRITISH OVERSEAS CITIZENSHIP


Any person who was a citizen of the United Kingdom and Colonies immediately before commencement and who does not at commencement become either a British citizen or a British overseas territories citizen shall at commencement become a British Overseas citizen.

Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
27.— **Registration of minors.**

(1) If while a person is a minor an application is made for his registration as a British Overseas citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

(2) […] 68

28.— […] 69

29. **Renunciation.**
The provisions of section 12 shall apply in relation to British Overseas citizens and British Overseas citizenship as they apply in relation to British citizens and British citizenship.

**PART IV**

**BRITISH SUBJECTS**

30. **Continuance as British subjects of existing British subjects of certain descriptions.**

A person who immediately before commencement was—

(a) a British subject without citizenship by virtue of section 13 or 16 of the 1948 Act; or

(b) a British subject by virtue of section 1 of the British Nationality Act 1965 (registration of alien women who have been married to British subjects of certain descriptions),

shall as from commencement be a British subject by virtue of this section.

31.— **Continuance as British subjects of certain former citizens of Eire.**

(1) A person is within this subsection if immediately before 1st January 1949 he was both a citizen of Eire and a British subject.

(2) A person within subsection (1) who immediately before commencement was a British subject by virtue of section 2 of the 1948 Act (continuance of certain citizens of Eire as British subjects) shall as from commencement be a British subject by virtue of this subsection.

(3) If at any time after commencement a citizen of the Republic of Ireland who is within subsection (1) but is not a British subject by virtue of subsection (2) gives notice in writing to the Secretary of State claiming to remain a British subject on either or both of the following grounds, namely—

(a) that he is or has been in Crown Service under the government of the United Kingdom; and

(b) that he has associations by way of descent, residence or otherwise with the United Kingdom or with any [British overseas territory] 70,

he shall as from that time be a British subject by virtue of this subsection.

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68 Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.2 para.1(g) (November 7, 2002)
69 Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.2 para.1(h) (November 7, 2002)
70 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
(4) A person who is a British subject by virtue of subsection (2) or (3) shall be deemed to have remained a British subject from 1st January 1949 to the time when (whether already a British subject by virtue of the said section 2 or not) he became a British subject by virtue of that subsection.

32. Registration of minors.
If while a person is a minor an application is made for his registration as a British subject, the Secretary of State may, if he thinks fit, cause him to be registered as a British subject.

33. […]

34. Renunciation.
The provisions of section 12 shall apply in relation to British subjects and the status of a British subject as they apply in relation to British citizens and British citizenship.

35. Circumstances in which British subjects are to lose that status.
A person who under this Act is a British subject otherwise than by virtue of section 31 shall cease to be such a subject if, in whatever circumstances and whether under this Act or otherwise, he acquires any other citizenship or nationality whatever.

PART V
MISCELLANEOUS AND SUPPLEMENTARY

The provisions of Schedule 2 shall have effect for the purpose of reducing statelessness.

37.— Commonwealth citizenship.
(1) Every person who—
   (a) under [ the British Nationality Acts 1981 and 1983 ] [ or the British Overseas Territories Act 2002 ] is a British citizen, a [British overseas territories citizen] [a British National (Overseas),] a British Overseas citizen or a British subject; or
   (b) under any enactment for the time being in force in any country mentioned in Schedule 3 is a citizen of that country,
shall have the status of a Commonwealth citizen.

(2) Her Majesty may by Order in Council amend Schedule 3 by the alteration of any entry, the removal of any entry, or the insertion of any additional entry.

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71 Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.2 para.1(i) (November 7, 2002)
72 Words substituted by British Nationality (Falkland Islands) Act 1983 (c.6), s. 4(3)
73 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.4 (May 21, 2002)
74 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
75 Words inserted by S.I. 1986/948, art. 7(3)(b)
(3) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) After commencement no person shall have the status of a Commonwealth citizen or the status of a British subject otherwise than under this Act.

38. — British protected persons.

(1) Her Majesty may by Order in Council made in relation to any territory which was at any time before commencement—
   (a) a protectorate or protected state for the purposes of the 1948 Act; or
   (b) a United Kingdom trust territory within the meaning of that Act,
declare to be British protected persons for the purposes of this Act any class of persons who are connected with that territory and are not citizens of any country mentioned in Schedule 3 which consists of or includes that territory.

(2) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.


(1) […]

(2) […]

(3) […]

(4) […]

(5) […]

(6) […]

(7) […]

(8) A certificate of partiality issued under the Immigration Act 1971 and in force immediately before commencement shall have effect after commencement as if it were a certificate of entitlement issued under that Act [as in force after commencement] , unless at commencement the holder ceases to have the right of abode in the United Kingdom.

[40 Deprivation of citizenship]

(1) In this section a reference to a person’s “citizenship status” is a reference to his status as—
   (a) a British citizen,
   (b) a British overseas territories citizen,
(c) a British Overseas citizen,
(d) a British National (Overseas),
(e) a British protected person, or
(f) a British subject.

[2] The Secretary of State may by order deprive a person of a citizenship status if the Secretary of State is satisfied that deprivation is conducive to the public good. 82

(3) The Secretary of State may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of—
   (a) fraud,
   (b) false representation, or
   (c) concealment of a material fact.

(4) The Secretary of State may not make an order under subsection (2) if he is satisfied that the order would make a person stateless.

(5) Before making an order under this section in respect of a person the Secretary of State must give the person written notice specifying—
   (a) that the Secretary of State has decided to make an order,
   (b) the reasons for the order, and
   (c) the person's right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997 (c. 68).

(6) Where a person acquired a citizenship status by the operation of a law which applied to him because of his registration or naturalisation under an enactment having effect before commencement, the Secretary of State may by order deprive the person of the citizenship status if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of—
   (a) fraud,
   (b) false representation, or
   (c) concealment of a material fact.

83

[40A Deprivation of citizenship: appeal

(1) A person who is given notice under section 40(5) of a decision to make an order in respect of him under section 40 may appeal against the decision to [the Asylum and Immigration Tribunal] 84.

(2) Subsection (1) shall not apply to a decision if the Secretary of State certifies that it was taken wholly or partly in reliance on information which in his opinion should not be made public—
   (a) in the interests of national security,
   (b) in the interests of the relationship between the United Kingdom and another country, or
   (c) otherwise in the public interest.

82 Substituted by Immigration, Asylum and Nationality Act 2006 c. 13 s.56(1) (June 16, 2006)
83 S.40-40A substituted for s.40 by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.4(1) (April 1, 2003)
84 Words substituted by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 c. 19 Sch.2(1) para.4(a) (April 4, 2005 subject to transitional provisions specified in SI 2005/565 arts.3-9)
(3) The following provisions of the Nationality, Immigration and Asylum Act 2002 (c.41) shall apply in relation to an appeal under this section as they apply in relation to an appeal under [section 82, 83 or 83A] of that Act—
(a) section 87 (successful appeal: direction) (for which purpose a direction may, in particular, provide for an order under section 40 above to be treated as having had no effect),
(b) sections 103A to 103E (review and appeal),
(c) section 106 (rules), [...]
(d) section 107 (practice directions) [and]
(e) section 108 (forged document: proceedings in private).

(6)-(8) [...]
(db) for the content and conduct of a citizenship ceremony;
(dc) for the administration and making of a citizenship oath or pledge;
(dd) for the registration and certification of the making of a citizenship oath or pledge;
(de) for the completion and grant of a certificate of registration or naturalisation;
(e) for the giving of any notice required or authorised to be given to any person under this Act;
(f) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship or of the status of a British National (Overseas) under this Act, and for requiring such certificates to be delivered up for those purposes;
(g) for the births and deaths of persons of any class or description born or dying in a country mentioned in Schedule 3 to be registered there by the High Commissioner for Her Majesty's government in the United Kingdom or by members of his official staff;
(h) for the births and deaths of persons of any class or description born or dying in a foreign country to be registered there by consular officers or other officers in the service of Her Majesty's government in the United Kingdom;
(i) for enabling the births and deaths of British citizens, British overseas territories citizens, British Nationals (Overseas), British Overseas citizens, British subjects and British protected persons born or dying in any country in which Her Majesty's government in the United Kingdom has for the time being no diplomatic or consular representatives to be registered—

(i) by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with Her Majesty's government in the United Kingdom, has undertaken to represent that government's interest in that country, or
(ii) by a person authorised in that behalf by the Secretary of State.

[j) as to the consequences of failure to comply with provision made under any of paragraphs (a) to (i).]95

[ (1A) Regulations under subsection (1)(ba) or (bb) may, in particular—

(a) make provision by reference to possession of a specified qualification;
(b) make provision by reference to possession of a qualification of a specified kind;
(c) make provision by reference to attendance on a specified course;
(d) make provision by reference to attendance on a course of a specified kind;
(e) make provision by reference to a specified level of achievement;
(f) enable a person designated by the Secretary of State to determine sufficiency of knowledge in specified circumstances;
(g) enable the Secretary of State to accept a qualification of a specified kind as evidence of sufficient knowledge of a language.

91 S.41(1)(d)-(de) substituted for s.41(1)(d) by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.4 (January 1, 2004)
92 Words inserted by S.I. 1986/948, s. 7(4)(b)
93 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
94 Words inserted by S.I. 1986/948, art. 7(4)(c)
95 Added by Immigration, Asylum and Nationality Act 2006 c. 13 s.50(4) (November 5, 2007)
96 Added by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.1(4) (July 6, 2004)
(2) […]

(3) Regulations under subsection (1) […] may make different provision for different circumstances; and—

(a) regulations under subsection (1) may provide for the extension of any time-limit for the [making of oaths and pledges of citizenship] [.]

(b) […]

[ (3A) Regulations under subsection (1)(d) to (de) may, in particular—

(a) enable the Secretary of State to designate or authorise a person to exercise a function (which may include a discretion) in connection with a citizenship ceremony or a citizenship oath or pledge;

(b) require, or enable the Secretary of State to require, a local authority to provide specified facilities and to make specified arrangements in connection with citizenship ceremonies;

(c) impose, or enable the Secretary of State to impose, a function (which may include a discretion) on a local authority or on a registrar.

(3B) In subsection (3A)—

“local authority” means—

(a) in relation to England and Wales, a county council, a county borough council, a metropolitan district council, a London Borough Council and the Common Council of the City of London, and

(b) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), and

“registrar” means—

(a) in relation to England and Wales, a superintendent registrar of births, deaths and marriages (or, in accordance with section 8 of the Registration Service Act 1953 (c. 37), a deputy superintendent registrar), and

(b) in relation to Scotland, a district registrar within the meaning of section 7(12) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49).

]100

(4) Her Majesty may by Order in Council provide for any Act or Northern Ireland legislation to which this subsection applies to apply, with such adaptations and modifications as appear to Her necessary, to births and deaths registered—

(a) in accordance with regulations made in pursuance of subsection (1)(g) to (i) of this section or subsection (1)(f) and (g) of section 29 of the 1948 Act; or

(b) at a consulate of Her Majesty in accordance with regulations made under the British Nationality and Status of Aliens Acts 1914 to 1943 or in accordance with instructions of the Secretary of State; or

(c) by a High Commissioner for Her Majesty's government in the United Kingdom or members of his official staff in accordance with instructions of the Secretary of State; and

an Order in Council under this subsection may exclude, in relation to births and deaths so registered, any of the provisions of section 45.

[97 Repealed by Immigration, Asylum and Nationality Act 2006 c. 13 Sch.3 para.1 (April 2, 2007 as SI 2007/1109)

[98 Words repealed by Immigration, Asylum and Nationality Act 2006 c. 13 Sch.3 para.1 (April 2, 2007 as SI 2007/1109)

[99 Words substituted by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.6 (January 1, 2004)

[100 Added by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.7 (January 1, 2004)
(5) Subsection (4) applies to—
   (a) the Births and Deaths Registration Act 1953, the Registration Service Act 1953 and the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and
   (b) so much of any Northern Ireland legislation for the time being in force (whether passed or made before or after commencement) as relates to the registration of births and deaths.

(6) The power to make regulations under subsection (1) or (2) shall be exercisable by statutory instrument.

(7) Any regulations or Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[42 Registration and naturalisation: citizenship ceremony, oath and pledge

(1) A person of full age shall not be registered under this Act as a British citizen unless he has made the relevant citizenship oath and pledge specified in Schedule 5 at a citizenship ceremony.

(2) A certificate of naturalisation as a British citizen shall not be granted under this Act to a person of full age unless he has made the relevant citizenship oath and pledge specified in Schedule 5 at a citizenship ceremony.

(3) A person of full age shall not be registered under this Act as a British overseas territories citizen unless he has made the relevant citizenship oath and pledge specified in Schedule 5.

(4) A certificate of naturalisation as a British overseas territories citizen shall not be granted under this Act to a person of full age unless he has made the relevant citizenship oath and pledge specified in Schedule 5.

(5) A person of full age shall not be registered under this Act as a British Overseas citizen or a British subject unless he has made the relevant citizenship oath specified in Schedule 5.

(6) Where the Secretary of State thinks it appropriate because of the special circumstances of a case he may—
   (a) disapply any of subsections (1) to (5), or
   (b) modify the effect of any of those subsections.

(7) Sections 5 and 6 of the Oaths Act 1978 (c. 19) (affirmation) apply to a citizenship oath; and a reference in this Act to a citizenship oath includes a reference to a citizenship affirmation.

[42B Registration and naturalisation: timing

(1) A person who is registered under this Act as a citizen of any description or as a British subject shall be treated as having become a citizen or subject—
   (a) immediately on making the required citizenship oath and pledge in accordance with section 42, or

101 Ss.42-42B substituted for s.42 by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.1 (January 1, 2004)

102 Repealed by Immigration, Asylum and Nationality Act 2006 c. 13 Sch.3 para.1 (April 2, 2007 as SI 2007/1109)
(b) where the requirement for an oath and pledge is disapplied, immediately on registration.

(2) A person granted a certificate of naturalisation under this Act as a citizen of any description shall be treated as having become a citizen—
   (a) immediately on making the required citizenship oath and pledge in accordance with section 42, or
   (b) where the requirement for an oath and pledge is disapplied, immediately on the grant of the certificate.

(3) In the application of subsection (1) to registration as a British Overseas citizen or as a British subject the reference to the citizenship oath and pledge shall be taken as a reference to the citizenship oath.

43.— Exercise of functions of Secretary of State by Governors and others.

(1) Subject to subsection (3), the Secretary of State may, in the case of any of his functions under this Act with respect to any of the matters mentioned in subsection (2), make arrangements for that function to be exercised—
   (a) in any of the Islands, by the Lieutenant-Governor in cases concerning British citizens or British citizenship;
   (b) in any British overseas territory

(2) The said matters are—
   (a) registration and naturalisation; and
   (b) renunciation, resumption and deprivation of British citizenship or British overseas territories citizenship.

(3) Nothing in this section applies in the case of any power to make regulations or rules conferred on the Secretary of State by this Act.

(4) Arrangements under subsection (1) may provide for any such function as is there mentioned to be exercisable only with the approval of the Secretary of State.

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103 Ss.42-42B substituted for s.42 by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.1 (January 1, 2004)
104 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
105 Words repealed by British Overseas Territories Act 2002 c. 8 Sch.2 para.1 (February 26, 2002 for repeals specified in 2002 c.8 s.8(2)(c); May 21, 2002 otherwise)
106 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
107 Words inserted by S.I. 1986/948, art. 7(6)(b)
108 S. 43(2)(c) inserted by S.I. 1986/948, art. 7(6)(c)
44.— Decisions involving exercise of discretion.

(1) Any discretion vested by or under this Act in the Secretary of State, a Governor or a Lieutenant-Governor shall be exercised without regard to the race, colour or religion of any person who may be affected by its exercise.

(2)-(3) [...]

[44A Waiver of requirement for full capacity
Where a provision of this Act requires an applicant to be of full capacity, the Secretary of State may waive the requirement in respect of a specified applicant if he thinks it in the applicant's best interests. ]

45.— Evidence.

(1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register, or a subscription of an oath of allegiance, given, granted or made under this Act or any of the former nationality Acts shall be received in evidence and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

(2) Prima facie evidence of any such document may be given by the production of a document purporting to be certified as a true copy of it by such person and in such manner as may be prescribed.

(3) Any entry in a register made under this Act or any of the former nationality Acts shall be received as evidence (and in Scotland as sufficient evidence) of the matters stated in the entry.

(4) A certificate given by or on behalf of the Secretary of State that a person was at any time in Crown service under the government of the United Kingdom or that a person's recruitment for such service took place in the United Kingdom shall, for the purposes of this Act, be conclusive evidence of that fact.

46.— Offences and proceedings.

(1) Any person who for the purpose of procuring anything to be done or not to be done under this Act—

(a) makes any statement which he knows to be false in a material particular; or

(b) recklessly makes any statement which is false in a material particular,

shall be liable on summary conviction in the United Kingdom to imprisonment for a term not exceeding three months or to a fine not exceeding [level 5 on the standard scale], or both.

(2) Any person who without reasonable excuse fails to comply with any requirement imposed on him by regulations made under this Act with respect to the delivering up of certificates of naturalisation shall be liable on summary conviction in the United Kingdom to a fine not exceeding [level 4 on the standard scale].

109 Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Pt I s.7(1) (November 7, 2002)
110 Added by Immigration, Asylum and Nationality Act 2006 c. 13 s.49 (August 31, 2006)
111 Words substituted by Criminal Justice Act 1982 (c.48), s. 46, Criminal Procedure (Scotland) Act 1975 (c.21), s. 289G and S.I. 1984/703 (N.I. 3), art. 5
(3) In the case of an offence under subsection (1)—
   (a) any information relating to the offence may in England and Wales be tried by a
       magistrates’ court if it is laid within six months after the commission of the offence, or if it
       is laid within three years after the commission of the offence and not more than two months
       after the date certified by a chief officer of police to be the date on which evidence sufficient
       to justify proceedings came to the notice of an officer of his police force; and
   (b) summary proceedings for the offence may in Scotland be commenced within six months
       after the commission of the offence, or within three years after the commission of the offence
       and not more than two months after the date on which evidence sufficient in the opinion of
       the Lord Advocate to justify proceedings came to his knowledge; and
   (c) a complaint charging the commission of the offence may in Northern Ireland be heard
       and determined by a magistrates’ court if it is made within six months after the commission
       of the offence, or if it is made within three years after the commission of the offence and
       not more than two months after the date certified by an officer of police not below the rank
       of assistant chief constable to be the date on which evidence sufficient to justify the
       proceedings came to the notice of the police in Northern Ireland.

(4) For the purposes of subsection (3)(b) proceedings shall be deemed to be commenced on the
     date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed
     without undue delay; and a certificate of the Lord Advocate as to the date on which such evidence
     as is mentioned in subsection (3)(b) came to his knowledge shall be conclusive evidence.

(5) For the purposes of the trial of a person for an offence under subsection (1) or (2), the offence
     shall be deemed to have been committed either at the place at which it actually was committed or
     at any place at which he may be.

(6) In their application to the Bailiwick of Jersey subsections (1) and (2) shall have effect with the
     omission of the words “on summary conviction”.

Amendments Pending
Pt V s. 46(1): words substituted (date to be announced) by 2003 c. 44 Sch. 26 para. 29

47.— […]¹¹²

Any reference in this Act to the status or description of the father or mother of a person at the time
of that person's birth shall, in relation to a person born after the death of his father or mother, be
construed as a reference to the status or description of the parent in question at the time of that
parent's death; and where that death occurred before, and the birth occurs after, commencement,
the status or description which would have been applicable to the father or mother had he or she
died after commencement shall be deemed to be the status or description applicable to him or her
at the time of his or her death.

49.— […]¹¹³

¹¹² Repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.9(4) (July 1, 2006 as SI 2006/1498)
50.— Interpretation.

(1) In this Act, unless the context otherwise requires—

“the 1948 Act” means the British Nationality Act 1948;

“alien” means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland;

[ “appointed day” means the day appointed by the Secretary of State under section 8 of the British Overseas Territories Act 2002 for the commencement of Schedule 1 to that Act;]¹¹⁴

“association” means an unincorporated body of persons;

[ “British National (Overseas)” means a person who is a British National (Overseas) under the Hong Kong (British Nationality) Order 1986, and “status of a British National (Overseas)” shall be construed accordingly;

“British Overseas citizen” includes a person who is a British Overseas citizen under the Hong Kong (British Nationality) Order 1986 [;]¹¹⁵

[ “British overseas territory” means a territory mentioned in Schedule 6;]¹¹⁵

“British protected person” means a person who is a member of any class of persons declared to be British protected persons by an Order in Council for the time being in force under section 38 or is a British protected person by virtue of the Solomon Islands Act 1978;

“commencement”, without more, means the commencement of this Act;

“Commonwealth citizen” means a person who has the status of a Commonwealth citizen under this Act;

“company” means a body corporate;

[ “Convention adoption” means an adoption effected under the law of a country or territory in which the Convention is in force, and certified in pursuance of Article 23(1) of the Convention;]¹¹⁷

“Crown service” means the service of the Crown, whether within Her Majesty’s dominions or elsewhere;

“Crown service under the government of the United Kingdom” means Crown service under Her Majesty’s government in the United Kingdom or under Her Majesty’s government in Northern Ireland [ or under the Scottish Administration]¹¹⁸;

[…]¹¹⁹

[ “designated territory” means a qualifying territory, or the Sovereign Base Areas of Akrotiri and Dhekelia, which is designated by Her Majesty by Order in Council under subsection (14);]¹²⁰

“enactment” includes an enactment comprised in Northern Ireland legislation;

¹¹³ Repealed by British Nationality Act 1981 (c.61), s. 52(7)(8), Sch. 8 para. 8, Sch. 9
¹¹⁴ Definition inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.5(2) (May 21, 2002)
¹¹⁵ Definition inserted by British Overseas Territories Act 2002 c. 8 s.1(1)(a) (February 26, 2002)
¹¹⁶ Definitions inserted by S.I. 1986/948, art. 7(8)
¹¹⁷ Definition inserted by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.137(6)(a) (December 30, 2005)
¹¹⁸ Words inserted by Scotland Act 1998 (Consequential Modifications) (No.1) Order 1999/1042 Sch.1(1) para.10 (May 6, 1999)
¹¹⁹ Definition repealed by British Overseas Territories Act 2002 c. 8 Sch.2 para.1 (February 26, 2002 for repeals specified in 2002 c.8 s.8(2)(c); May 21, 2002 otherwise)
¹²⁰ Definition inserted by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.137(6)(b) (December 30, 2005)
“foreign country” means a country other than the United Kingdom, a [British overseas territory]121, a country mentioned in Schedule 3 and the Republic of Ireland;

“the former nationality Acts” means—
(a) the British Nationality Acts 1948 to 1965;
(b) the British Nationality and Status of Aliens Acts 1914 to 1943; and
(c) any Act repealed by the said Acts of 1914 to 1943 or by the Naturalization Act 1870;

“Governor”, in relation to a [British overseas territory]121, includes the officer for the time being administering the government of that territory;

“High Commissioner” includes an acting High Commissioner;

“immigration laws”—
(a) in relation to the United Kingdom, means the Immigration Act 1971 and any law for purposes similar to that Act which is for the time being or has at any time been in force in any part of the United Kingdom;
(b) in relation to a [British overseas territory]121, means any law for purposes similar to the Immigration Act 1971 which is for the time being or has at any time been in force in that territory;

“the Islands” means the Channel Islands and the Isle of Man;

“minor” means a person who has not attained the age of eighteen years;

“prescribed” means prescribed by regulations made under section 41;

“qualifying territory” means a British overseas territory other than the Sovereign Base Areas of Akrotiri and Dhekelia;114

“settled” shall be construed in accordance with subsections (2) to (4);

“ship” includes a hovercraft;

“statutory provision” means any enactment or any provision contained in—
(a) subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978); or
(b) any instrument of a legislative character made under any Northern Ireland legislation;

“the United Kingdom” means Great Britain, Northern Ireland and the Islands, taken together;

“United Kingdom consulate” means the office of a consular officer of Her Majesty's government in the United Kingdom where a register of births is kept or, where there is no such office, such office as may be prescribed.

(2) Subject to subsection (3), references in this Act to a person being settled in the United Kingdom or in a [British overseas territory]121 are references to his being ordinarily resident in the United Kingdom or, as the case may be, in that territory without being subject under the immigration laws to any restriction on the period for which he may remain.

(3) Subject to subsection (4), a person is not to be regarded for the purposes of this Act—
(a) as having been settled in the United Kingdom at any time when he was entitled to an exemption under section 8(3) or (4)(b) or (c) of the Immigration Act 1971 or, unless the order under section 8(2) of that Act conferring the exemption in question provides otherwise, to an exemption under the said section 8(2), or to any corresponding exemption under the former immigration laws; or

121 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
(b) as having been settled in a [British overseas territory] \(^{121}\) at any time when he was under the immigration laws entitled to any exemption corresponding to any such exemption as is mentioned in paragraph (a) (that paragraph being for the purposes of this paragraph read as if the words from “unless” to “otherwise” were omitted).

(4) A person to whom a child is born in the United Kingdom after commencement is to be regarded for the purposes of section 1(1) as being settled in the United Kingdom at the time of the birth if—
(a) he would fall to be so regarded but for his being at that time entitled to an exemption under section 8(3) of the Immigration Act 1971; and
(b) immediately before he became entitled to that exemption he was settled in the United Kingdom; and
(c) he was ordinarily resident in the United Kingdom from the time when he became entitled to that exemption to the time of the birth;

but this subsection shall not apply if at the time of the birth the child's father or mother is a person on whom any immunity from jurisdiction is conferred by or under the Diplomatic Privileges Act 1964

(5) It is hereby declared that a person is not to be treated for the purpose of any provision of this Act as ordinarily resident in the United Kingdom or in a [British overseas territory] \(^{121}\) at a time when he is in the United Kingdom or, as the case may be, in that territory in breach of the immigration laws.

(6) For the purposes of this Act—
(a) a person shall be taken to have been naturalised in the United Kingdom if, but only if, he is—
(i) a person to whom a certificate of naturalisation was granted under any of the former nationality Acts by the Secretary of State or, in any of the Islands, by the Lieutenant-Governor; or
(ii) a person who by virtue of section 27(2) of the British Nationality and Status of Aliens Act 1914 was deemed to be a person to whom a certificate of naturalisation was granted, if the certificate of naturalisation in which his name was included was granted by the Secretary of State; or
(iii) a person who by virtue of section 10(5) of the Naturalization Act 1870 was deemed to be a naturalised British subject by reason of his residence with his father or mother;

(b) a person shall be taken to have been naturalised in a [British overseas territory] \(^{121}\) if, but only if, he is—
(i) a person to whom a certificate of naturalisation was granted under any of the former nationality Acts by the Governor of that territory or by a person for the time being specified in a direction given in relation to that territory under paragraph 4 of Schedule 3 to the West Indies Act 1967 or for the time being holding an office so specified; or
(ii) a person who by virtue of the said section 27(2) was deemed to be a person to whom a certificate of naturalisation was granted, if the certificate of naturalisation in which his name was included was granted by the Governor of that territory; or
(iii) a person who by the law in force in that territory enjoyed the privileges of naturalisation within that territory only;

and references in this Act to naturalisation in the United Kingdom or in a [British overseas territory] \(^{121}\) shall be construed accordingly.
For the purposes of this Act a person born outside the United Kingdom aboard a ship or aircraft—
(a) shall be deemed to have been born in the United Kingdom if—
(i) at the time of the birth his father or mother was a British citizen; or
(ii) he would, but for this subsection, have been born stateless,
and (in either case) at the time of the birth the ship or aircraft was registered in the United Kingdom or was an unregistered ship or aircraft of the government of the United Kingdom;
but
(b) subject to paragraph (a), is to be regarded as born outside the United Kingdom, whoever was the owner of the ship or aircraft at that time, and irrespective of whether or where it was then registered.

[...]

(7A) For the purposes of this Act a person born outside a qualifying territory aboard a ship or aircraft—
(a) shall be deemed to have been born in that territory if—
(i) at the time of the birth his father or mother was a British citizen or a British overseas territories citizen; or
(ii) he would, but for this subsection, have been born stateless,
and (in either case) at the time of the birth the ship or aircraft was registered in that territory or was an unregistered ship or aircraft of the government of that territory; but
(b) subject to paragraph (a), is to be regarded as born outside that territory, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered.

(7B) For the purposes of this Act a person born outside a British overseas territory, other than a qualifying territory, aboard a ship or aircraft—
(a) shall be deemed to have been born in that territory if—
(i) at the time of the birth his father or mother was a British overseas territories citizen; or
(ii) he would, but for this subsection, have been born stateless,
and (in either case) at the time of the birth the ship or aircraft was registered in that territory or was an unregistered ship or aircraft of the government of that territory; but
(b) subject to paragraph (a), is to be regarded as born outside that territory, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered.

(8) For the purposes of this Act an application under any provision thereof shall be taken to have been made at the time of its receipt by a person authorised to receive it on behalf of the person to whom it is made; and references in this Act to the date of such an application are references to the date of its receipt by a person so authorised.

(9) For the purposes of this Act a child's mother is the woman who gives birth to the child.

(9A) For the purposes of this Act a child's father is—
(a) the husband, at the time of the child's birth, of the woman who gives birth to the child, or

122 Words substituted by British Overseas Territories Act 2002 c. 8 Sch.1 para.5(3) (May 21, 2002)
(b) where a person is treated as the father of the child under section 28 of the Human Fertilisation and Embryology Act 1990 (c. 37) (father), that person, or
(c) where neither paragraph (a) nor paragraph (b) applies, any person who satisfies prescribed requirements as to proof of paternity.

(9B) In subsection (9A)(c) “prescribed” means prescribed by regulations of the Secretary of State; and the regulations—
(a) may confer a function (which may be a discretionary function) on the Secretary of State or another person,
(b) may make provision which applies generally or only in specified circumstances,
(c) may make different provision for different circumstances,
(d) must be made by statutory instrument, and
(e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9C) The expressions “parent”, “child” and “descended” shall be construed in accordance with subsections (9) and (9A). 123

(10) For the purposes of this Act—
(a) a period “from” or “to” a specified date includes that date; and
(b) any reference to a day on which a person was absent from the United Kingdom or from a [British overseas territory]121 or from the [British overseas territories]121 is a reference to a day for the whole of which he was so absent.

(11) For the purposes of this Act—
(a) a person is of full age if he has attained the age of eighteen years, and of full capacity if he is not of unsound mind; and
(b) a person attains any particular age at the beginning of the relevant anniversary of the date of his birth.

(12) References in this Act to any country mentioned in Schedule 3 include references to the dependencies of that country.

(13) Her Majesty may by Order in Council subject to annulment in pursuance of a resolution of either House of Parliament amend Schedule 6 in any of the following circumstances, namely—
(a) where the name of any territory mentioned in it is altered; or
(b) where any territory mentioned in it is divided into two or more territories.

(14) For the purposes of the definition of “designated territory” in subsection (1), an Order in Council may—
(a) designate any qualifying territory, or the Sovereign Base Areas of Akrotiri and Dhekelia, if the Convention is in force there; and
(b) make different designations for the purposes of section 1 and section 15;
and, for the purposes of this subsection and the definition of “Convention adoption” in subsection (1), “the Convention” means the Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993.

An Order in Council under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

123 S.50(9)-(9C) substituted for s.50(9) by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.9(1) (June 5, 2006 for purposes specified in SI 2006/1498 art.2(a) and July 1, 2006 otherwise)
51.— Meaning of certain expressions relating to nationality in other Acts and instruments.

(1) Without prejudice to subsection (3)(c), in any enactment or instrument whatever passed or made before commencement “British subject” and “Commonwealth citizen” have the same meaning, that is—

(a) in relation to any time before commencement—

(i) a person who under the 1948 Act was at that time a citizen of the United Kingdom and Colonies or who, under any enactment then in force in a country mentioned in section 1(3) of that Act as then in force, was at that time a citizen of that country; and

(ii) any other person who had at that time the status of a British subject under that Act or any other enactment then in force;

(b) in relation to any time after commencement, a person who has the status of a Commonwealth citizen under this Act.

(2) In any enactment or instrument whatever passed or made after commencement—

“British subject” means a person who has the status of a British subject under this Act; “Commonwealth citizen” means a person who has the status of a Commonwealth citizen under this Act.

(3) In any enactment or instrument whatever passed or made before commencement—

(a) “citizen of the United Kingdom and Colonies” —

(i) in relation to any time before commencement, means a person who under the 1948 Act was at that time a citizen of the United Kingdom and Colonies;

(ii) in relation to any time after commencement, means a person who under [the British Nationality Acts 1981 and 1983] 125 or the British Overseas Territories Act 2002 is a British citizen, a British overseas territories citizen of a British Overseas citizen; [or who under the Hong Kong (British Nationality) Order 1986 is a British National (Overseas)] 128

(b) any reference to ceasing to be a citizen of the United Kingdom and Colonies shall, in relation to any time after commencement, be construed as a reference to becoming a person

124 Added by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.137(7) (December 30, 2005)
125 Words substituted by British Nationality (Falkland Islands) Act 1983 (c.6), s. 4(3)
126 Words inserted by British Overseas Territories Act 2002 c. 8 Sch.1 para.6 (May 21, 2002)
127 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
128 Words inserted by S.I. 1986/948, art. 7(9)(a)
who is neither a British citizen nor a [British overseas territories citizen] \(^{127}\) nor a British National (Overseas) \(^{129}\) nor a British Overseas citizen;

c (c) any reference to a person who is a British subject (or a British subject without citizenship) by virtue of section 2, 13, or 16 of the 1948 Act or by virtue of, or of section 1 of, the British Nationality Act 1965 shall, in relation to any time after commencement, be construed as a reference to a person who under this Act is a British subject.

(4) In any statutory provision, whether passed or made before or after commencement, and in any other instrument whatever made after commencement “alien”, in relation to any time after commencement, means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland.

(5) The preceding provisions of this section—
   (a) shall not apply in cases where the context otherwise requires; and
   (b) shall not apply to this Act or to any instrument made under this Act.

52.— Consequential amendments, transitional provisions, repeals and savings.

(1) In any enactment or instrument whatever passed or made before commencement, for any reference to section 1(3) of the 1948 Act (list of countries whose citizens are Commonwealth citizens under that Act) there shall be substituted a reference to Schedule 3 to this Act, unless the context makes that substitution inappropriate.

(2) Subject to subsection (3), Her Majesty may by Order in Council make such consequential modifications of—
   (a) any enactment of the Parliament of the United Kingdom passed before commencement; or
   (b) any provision contained in any Northern Ireland legislation passed or made before commencement; or
   (c) any instrument made before commencement under any such enactment or provision,

   as appear to Her necessary or expedient for preserving after commencement the substantive effect of that enactment, provision or instrument.

(3) Subsection (2) shall not apply in relation to—
   (a) the Immigration Act 1971; or
   (b) any provision of this Act not contained in Schedule 7

(4) Any Order in Council made under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any provision made by Order in Council under subsection (2) after commencement may be made with retrospective effect as from commencement or any later date.

(6) […] \(^ {130}\)

(7) This Act shall have effect subject to the transitional provisions contained in Schedule 8

(8) […] \(^ {131}\)

\(^{127}\) Words inserted by S.I. 1986/948, art. 7(9)(b)

\(^{130}\) Provides for amendments of enactments specified in Sch. 7

\(^{131}\) Repeals enactments specified in Sch. 9
(9) Without prejudice to section 51, nothing in this Act affects the operation, in relation to any
time before commencement, of any statutory provision passed or made before commencement.

(10) Nothing in this Act shall be taken as prejudicing the operation of sections 16 and 17 of the
Interpretation Act 1978 (which relate to the effect of repeals).

(11) In this section “modifications” includes additions, omissions and alterations.

53.— Citation, commencement and extent.

(1) This Act may be cited as the British Nationality Act 1981

(2) This Act, except the provisions mentioned in subsection (3), shall come into force on such day
as the Secretary of State may by order made by statutory instrument appoint; and references to the
commencement of this Act shall be construed as references to the beginning of that day.

(3) Section 49 and this section shall come into force on the passing of this Act.

(4) This Act extends to Northern Ireland.

(5) The provisions of this Act, except those mentioned in subsection (7), extend to the Islands and
all British overseas territories; and section 36 of the Immigration Act 1971 (power to extend
provisions of that Act to Islands) shall apply to the said excepted provisions as if they were provisions
of that Act.

(6) […]

(7) The provisions referred to in subsections (5) […] are—
   (a) section 39 and Schedule 4;
   (b) section 52(7) and Schedule 8 so far as they relate to the Immigration Act 1971; and
   (c) section 52(8) and Schedule 9 so far as they relate to provisions of the Immigration Act
      1971 other than Schedule 1

SCHEDULE 1

REQUIREMENTS FOR NATURALISATION

Sections 6 and 18

Naturalisation as a British citizen under section 6(1)

1.—

(1) Subject to paragraph 2, the requirements for naturalisation as a British citizen under section
6(1) are, in the case of any person who applies for it—
   (a) the requirements specified in sub-paragraph (2) of this paragraph, or the alternative
      requirement specified in sub-paragraph (3) of this paragraph; and

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132 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
(b) that he is of good character; and
(c) that he has a sufficient knowledge of the English, Welsh or Scottish Gaelic language; and
[ (ca) that he has sufficient knowledge about life in the United Kingdom; and ]\(^{135}\)
(d) that either—
   (i) his intentions are such that, in the event of a certificate of naturalisation as a British citizen being granted to him, his home or (if he has more than one) his principal home will be in the United Kingdom; or
   (ii) he intends, in the event of such a certificate being granted to him, to enter into, or continue in, Crown service under the government of the United Kingdom, or service under an international organisation of which the United Kingdom or Her Majesty's government therein is a member, or service in the employment of a company or association established in the United Kingdom.

(2) The requirements referred to in sub-paragraph (1)(a) of this paragraph are—
   (a) that the applicant was in the United Kingdom at the beginning of the period of five years ending with the date of the application, and that the number of days on which he was absent from the United Kingdom in that period does not exceed 450; and
   (b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and
   (c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and
   (d) that he was not at any time in the period of five years so ending in the United Kingdom in breach of the immigration laws.

(3) The alternative requirement referred to in sub-paragraph (1)(a) of this paragraph is that on the date of the application he is serving outside the United Kingdom in Crown service under the government of the United Kingdom.

2.
If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 1 do all or any of the following things, namely—
   (a) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(a) or paragraph 1(2)(b), or both, although the number of days on which he was absent from the United Kingdom in the period there mentioned exceeds the number there mentioned;
   (b) treat the applicant as having been in the United Kingdom for the whole or any part of any period during which he would otherwise fall to be treated under paragraph 9(1) as having been absent;
   (c) disregard any such restriction as is mentioned in paragraph 1(2)(c), not being a restriction to which the applicant was subject on the date of the application;
   (d) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(d) although he was in the United Kingdom in breach of the immigration laws in the period there mentioned;

\(^{135}\) Added by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.1(1) (November 1, 2005 except in relation to the Channel Islands and the Isle of Man; May 1, 2006 otherwise)
(e) waive the need to fulfil [either or both of the requirements specified in paragraph 1(1)(c) and (ca)]\(^{136}\) if he considers that because of the applicant's age or physical or mental condition it would be unreasonable to [expect him to fulfil that requirement or those requirements]\(^{137}\).

**Naturalisation as a British citizen under section 6(2)**

3. Subject to paragraph 4, the requirements for naturalisation as a British citizen under section 6(2) are, in the case of any person who applies for it—

(a) that he was in the United Kingdom at the beginning of the period of three years ending with the date of the application, and that the number of days on which he was absent from the United Kingdom in that period does not exceed 270; and

(b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and

(c) that on the date of the application he was not subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and

(d) that he was not at any time in the period of three years ending with the date of the application in the United Kingdom in breach of the immigration laws; and

(e) the [requirements specified in paragraph 1(1)(b), (c) and (ca)]\(^{138}\).

4. Paragraph 2 shall apply in relation to paragraph 3 with the following modifications, namely—

(a) the reference to the purposes of paragraph 1 shall be read as a reference to the purposes of paragraph 3;

(b) the references to paragraphs 1(2)(a), 1(2)(b) and 1(2)(d) shall be read as references to paragraphs 3(a), 3(b) and 3(d) respectively;

(c) [paragraph 2(c)]\(^{139}\) shall be omitted; and

(d) after paragraph (e) there shall be added—

“(f) waive the need to fulfil all or any of the requirements specified in paragraph 3(a) and (b) if on the date of the application the person to whom the applicant is married [or of whom the applicant is the civil partner,]\(^{140}\) is serving in service to which section 2(1)(b) applies, that person's recruitment for that service having taken place in the United Kingdom”.

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\(^{136}\) Words substituted by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.1(2)(a) (November 1, 2005 except in relation to the Channel Islands and the Isle of Man; May 1, 2006 otherwise)

\(^{137}\) Words substituted by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.1(2)(b) (November 1, 2005 except in relation to the Channel Islands and the Isle of Man; May 1, 2006 otherwise)

\(^{138}\) Words substituted by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.2(1)(a) (July 28, 2004)

\(^{139}\) Words repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.2(1)(b) (July 28, 2004)

\(^{140}\) Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.78(2) (December 5, 2005)
Amendments Pending
Sch. 1 para. 4(c): words repealed (date to be announced) by 2002 c. 41 Sch. 9 para. 1

Naturalisation as a [British overseas territories citizen] under section 18(1)

5.—

(1) Subject to paragraph 6, the requirements for naturalisation as a [British overseas territories citizen] under section 18(1) are, in the case of any person who applies for it—
   (a) the requirements specified in sub-paragraph (2) of this paragraph, or the alternative requirement specified in sub-paragraph (3) of this paragraph; and
   (b) that he is of good character; and
   (c) that he has a sufficient knowledge of the English language or any other language recognised for official purposes in the relevant territory; and
   (d) that either—
      (i) his intentions are such that, in the event of a certificate of naturalisation as a [British overseas territories citizen] being granted to him, his home or (if he has more than one) his principal home will be in the relevant territory; or
      (ii) he intends, in the event of such a certificate being granted to him, to enter into, or continue in, Crown service under the government of that territory, or service under an international organisation of which that territory or the government of that territory is a member, or service in the employment of a company or association established in that territory.

(2) The requirements referred to in sub-paragraph (1)(a) of this paragraph are—
   (a) that he was in the relevant territory at the beginning of the period of five years ending with the date of the application, and that the number of days on which he was absent from that territory in that period does not exceed 450; and
   (b) that the number of days on which he was absent from that territory in the period of twelve months so ending does not exceed 90; and
   (c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in that territory; and
   (d) that he was not at any time in the period of five years so ending in that territory in breach of the immigration laws.

(3) The alternative requirement referred to in sub-paragraph (1)(a) of this paragraph is that on the date of the application he is serving outside the relevant territory in Crown service under the government of that territory.

6.
If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 5 do all or any of the following things, namely—

141 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
142 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
(a) treat the applicant as fulfilling the requirement specified in paragraph 5(2)(a) or paragraph 5(2)(b), or both, although the number of days on which he was absent from the relevant territory in the period there mentioned exceeds the number there mentioned;
(b) treat the applicant as having been in the relevant territory for the whole or any part of any period during which he would otherwise fall to be treated under paragraph 9(2) as having been absent;
(c) disregard any such restriction as is mentioned in paragraph 5(2)(c), not being a restriction to which the applicant was subject on the date of the application;
(d) treat the applicant as fulfilling the requirement specified in paragraph 5(2)(d) although he was in the relevant territory in breach of the immigration laws in the period there mentioned;
(e) waive the need to fulfil the requirement specified in paragraph 5(1)(c) if he considers that because of the applicant's age or physical or mental condition it would be unreasonable to expect him to fulfil it.

Naturalisation as a [British overseas territories citizen]\(^{143}\) under section 18(2)

7.
Subject to paragraph 8, the requirements for naturalisation as a [British overseas territories citizen]\(^{144}\) under section 18(2) are, in the case of any person who applies for it—
(a) that he was in the relevant territory at the beginning of the period of three years ending with the date of the application, and that the number of days on which he was absent from that territory in that period does not exceed 270; and
(b) that the number of days on which he was absent from that territory in the period of twelve months so ending does not exceed 90; and
(c) that on the date of the application he was not subject under the immigration laws to any restriction on the period for which he might remain in that territory; and
(d) that he was not at any time in the period of three years ending with the date of the application in that territory in breach of the immigration laws; and
(e) the [requirements specified in paragraph 5(1)(b) and (c)]\(^{145}\).

8.
Paragraph 6 shall apply in relation to paragraph 7 with the following modifications, namely—
(a) the reference to the purposes of paragraph 5 shall be read as a reference to the purposes of paragraph 7;
(b) the references to paragraphs 5(2)(a), 5(2)(b) and 5(2)(d) shall be read as references to paragraphs 7(a), 7(b) and 7(d) respectively;
(c) [paragraph 6(c)]\(^{146}\) shall be omitted; and
(d) after paragraph (e) there shall be added—

“(f) waive the need to fulfil all or any of the requirements specified in paragraph 7(a) and (b) if on the date of the application the person to whom

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143 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
144 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
145 Words substituted by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.2(2)(a) (July 28, 2004)
146 Words repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.2(2)(b) (July 28, 2004)
the applicant is married [or of whom the applicant is the civil partner],

is serving in service to which section 16(1)(b) applies, that person's recruitment for that service having taken place in a [British overseas territory]."

Amendments Pending
Sch. 1 para. 8(c): words repealed (date to be announced) by 2002 c. 41 Sch. 9 para. 1

**Periods to be treated as periods of absence from U.K. or a [British overseas territory]**

9.—

(1) For the purposes of this Schedule a person shall (subject to paragraph 2(b)) be treated as having been absent from the United Kingdom during any of the following periods, that is to say—

(a) any period when he was in the United Kingdom and either was entitled to an exemption under section 8(3) or (4) of the Immigration Act 1971 (exemptions for diplomatic agents etc. and members of the forces) or was a member of the family and formed part of the household of a person so entitled;

(b) any period when he was detained—

(i) in any place of detention in the United Kingdom in pursuance of a sentence passed on him by a court in the United Kingdom or elsewhere for any offence;

(ii) in any hospital in the United Kingdom under a hospital order made under [Part III of the Mental Health Act 1983] or section 175 or 376 of the Criminal Procedure (Scotland) Act 1975 or Part III of the Mental Health [(Northern Ireland) Order 1986] , being an order made in connection with his conviction of an offence; or

(iii) under any power of detention conferred by the immigration laws of the United Kingdom;

(c) any period when, being liable to be detained as mentioned in paragraph (b)(i) or (ii) of this sub-paragraph, he was unlawfully at large or absent without leave and for that reason liable to be arrested or taken into custody;

(d) any period when, his actual detention under any such power as is mentioned in paragraph (b)(iii) of this sub-paragraph being required or specifically authorised, he was unlawfully at large and for that reason liable to be arrested.

(2) For the purposes of this Schedule a person shall (subject to paragraph 6(b)) be treated as having been absent from any particular [British overseas territory] during any of the following periods, that is to say—

(a) any period when he was in that territory and either was entitled to an exemption under the immigration laws of that territory corresponding to any such exemption as is mentioned

147 Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.78(2) (December 5, 2005)
148 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
149 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
150 Words substituted by Mental Health Act 1983 (c.20) s. 148, Sch. 4 para. 60(a)
151 Words substituted by S.I. 1986/596, art. 8
152 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
in sub-paragraph (1)(a) or was a member of the family and formed part of the household of a person so entitled;

(b) any period when he was detained—
   (i) in any place of detention in the relevant territory in pursuance of a sentence passed on him by a court in that territory or elsewhere for any offence;
   (ii) in any hospital in that territory under a direction (however described) made under any law for purposes similar to [Part III of the Mental Health Act 1983] \(^{153}\) which was for the time being in force in that territory, being a direction made in connection with his conviction of an offence and corresponding to a hospital order under that Part; or
   (iii) under any power of detention conferred by the immigration laws of that territory;

(c) any period when, being liable to be detained as mentioned in paragraph (b)(i) or (ii) of this sub-paragraph, he was unlawfully at large or absent without leave and for that reason liable to be arrested or taken into custody;

(d) any period when, his actual detention under any such power as is mentioned in paragraph (b)(iii) of this sub-paragraph being required or specifically authorised, he was unlawfully at large and for that reason liable to be arrested.

**Interpretation**

10. In this Schedule “the relevant territory” has the meaning given by section 18(3).

**SCHEDULE 2**

**PROVISIONS FOR REDUCING STATELESSNESS**

*Persons born in the United Kingdom after commencement*

1.—

(1) Where a person born in the United Kingdom after commencement would, but for this paragraph, be born stateless, then, subject to sub-paragraph (3)—

(a) if at the time of the birth his father or mother is a citizen or subject of a description mentioned in sub-paragraph (2), he shall be a citizen or subject of that description; and accordingly

(b) if [...] \(^{154}\) at the time of the birth each of his parents is a citizen or subject of a different description so mentioned, he shall be a citizen or subject of the same description so mentioned as each of them is respectively at that time.

(2) The descriptions referred to in sub-paragraph (1) are a [British overseas territories citizen] \(^{155}\), a British Overseas citizen and a British subject under this Act.

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\(^{153}\) Words substituted by Mental Health Act 1983 (c.20), s. 148, Sch. 4 para. 60(b)

\(^{154}\) Words repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.9(5)(a) (July 1, 2006 as SI 2006/1498)

\(^{155}\) Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
(3) A person shall not be a British subject by virtue of this paragraph if by virtue of it he is a citizen of a description mentioned in sub-paragraph (2).

Amendments Pending

Sch. 2 para. 1(1)(b): words repealed (date to be announced) by 2002 c. 41 Sch. 9 para. 1

Persons born in a [British overseas territory] after commencement

[2.---]

(1) Where a person born in a [British overseas territory] after commencement would, but for this paragraph, be born stateless, then, subject to sub-paragraph (3)—

(a) if at the time of the birth his father or mother is a citizen or subject of a description mentioned in sub-paragraph (2), he shall be a citizen or subject of that description; and accordingly

(b) if [...] at the time of the birth each of his parents is a citizen or subject of a different description so mentioned, he shall be a citizen or subject of the same description so mentioned as each of them is respectively at that time.

(2) The descriptions referred to in sub-paragraph (1) are a British citizen, a British Overseas citizen and a British subject under this Act.

(3) A person shall not be a British subject by virtue of this paragraph if by virtue of it he is a citizen of a description mentioned in sub-paragraph (2).

Amendments Pending

Sch. 2 para. 2(1)(b): words repealed (date to be announced) by 2002 c. 41 Sch. 9 para. 1

Persons born in the United Kingdom or a dependent territory after commencement

[3.---]

(1) A person born in the United Kingdom or a British overseas territory after commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the following requirements are satisfied in his case, namely—

(a) that he is and always has been stateless; and

(b) that on the date of the application he [...] was under the age of twenty-two; and

(c) that he was in the United Kingdom or a British overseas territory (no matter which) at the beginning of the period of five years ending with that date and that (subject to paragraph

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156 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
157 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
158 Words repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Pt 1 s.9(5)(b) (July 1, 2006 as SI 2006/1498)
159 Words repealed by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.9 para.1 (April 1, 2003 as SI 2003/754)
6) the number of days on which he was absent from both the United Kingdom and the British overseas territories in that period does not exceed 450.

(2) A person entitled to registration under this paragraph—
   (a) shall be registered under it as a British citizen if, in the period of five years mentioned in sub-paragraph (1), the number of days wholly or partly spent by him in the United Kingdom exceeds the number of days wholly or partly spent by him in the British overseas territories;
   (b) in any other case, shall be registered under it as a [British overseas territories citizen] 160.

Persons born outside the United Kingdom and the [overseas] territories after commencement

4.—

(1) A person born outside the United Kingdom and the [British overseas territories] 163 after commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the following requirements are satisfied, namely—
   (a) that that person is and always has been stateless; and
   (b) that at the time of that person's birth his father or mother was a citizen or subject of a description mentioned in sub-paragraph (4); and
   (c) that that person was in the United Kingdom or a [British overseas territory] 163 (no matter which) at the beginning of the period of three years ending with the date of the application and that (subject to paragraph 6) the number of days on which he was absent from both the United Kingdom and the [British overseas territories] 163 in that period does not exceed 270.

(2) A person entitled to registration under this paragraph—
   (a) shall be registered under it as a citizen or subject of a description available to him in accordance with sub-paragraph (3); and
   (b) if more than one description is so available to him, shall be registered under this paragraph as a citizen of whichever one or more of the descriptions so available to him is or are stated in the application under this paragraph to be wanted.

(3) For the purposes of this paragraph the descriptions of citizen or subject available to a person entitled to registration under this paragraph are—
   (a) in the case of a person whose father or mother was at the time of that person's birth a citizen of a description mentioned in sub-paragraph (4), any description of citizen so mentioned which applied to his father or mother at that time;
   (b) in any other case, a British subject under this Act.

160 Words substituted by British Overseas Territories Act 2002 c. 8 s.2(2) (February 26, 2002)
161 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
162 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(2) (February 26, 2002)
163 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
(4) The descriptions referred to in sub-paragraphs (1) to (3) are a British citizen, a [British overseas territories citizen]¹⁶⁴, a British Overseas citizen and a British subject under this Act.

Persons born stateless before commencement

5.—

(1) A person born before commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the circumstances are such that, if—

(a) this Act had not been passed, and the enactments repealed or amended by this Act had continued in force accordingly; and

(b) an application for the registration of that person under section 1 of the British Nationality (No. 2) Act 1964 (stateless persons) as a citizen of the United Kingdom and Colonies had been made on the date of the application under this paragraph,

that person would have been entitled under that section to be registered as such a citizen.

(2) A person entitled to registration under this paragraph shall be registered under it as such a citizen as he would have become at commencement if, immediately before commencement, he had been registered as a citizen of the United Kingdom and Colonies under section 1 of the British Nationality (No. 2) Act 1964 on whichever of the grounds mentioned in subsection (1)(a) to (c) of that section he would have been entitled to be so registered on in the circumstances described in sub-paragraph (1)(a) and (b) of this paragraph.

Supplementary

[6.]

If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 3 or 4 treat the person who is the subject of the application as fulfilling the requirement specified in sub-paragraph (1)(c) of that paragraph although the number of days on which he was absent from both the United Kingdom and the British overseas territories in the period there mentioned exceeds the number there mentioned.

¹⁶⁵

SCHEDULE 3

COUNTRIES WHOSE CITIZENS ARE COMMONWEALTH CITIZENS

Section 37

Antigua and Barbuda
Australia
The Bahamas
Bangladesh
Barbados
Belize

¹⁶⁴ Words substituted by British Overseas Territories Act 2002 c. 8 s.2(3) (February 26, 2002)
¹⁶⁵ Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(b) (February 26, 2002)
Botswana
[Brunei] 166
[Cameroon] 167
Canada
Republic of Cyprus
Dominica
Fiji
The Gambia
Ghana
Grenada
Guyana
India
Jamaica
Kenya
Kiribati
Lesotho
Malawi
Malaysia
[Maldives] 168
Malta
Mauritius
[Mozambique] 167
Nauru
New Zealand
Nigeria
[Pakistan] 169
Papua New Guinea
[Saint Christopher and Nevis] 170
Saint Lucia
Saint Vincent and the Grenadines
Seychelles
Sierra Leone
Singapore
Solomon Islands
[South Africa] 171
Sri Lanka
Swaziland
Tanzania
Tonga
Trinidad and Tobago

166 Word inserted by S.I. 1983/1699, arts. 1(2), 3
167 Words inserted by British Nationality (Cameroon and Mozambique) Order 1998/3161 art.2 (January 25, 1999)
168 Word inserted by Brunei and Maldives Act 1985 (c.3), s. 8
169 Word inserted by S.I. 1989/1331, art. 2
170 Words inserted by S.I. 1983/882, art. 2(a)
171 Words inserted by British Nationality (South Africa) Order 1994/1634 art.2 (July 26, 1994)
Tuvalu
Uganda
Vanuatu
Western Samoa
Zambia
Zimbabwe.
[Namibia]172

SCHEDULE 4

1. […]173
2. […]174
3.  
(1) […]175
(2) […]176
4. […]177
5. […]178
6. […]179
7.  
(a) […]180
(b) […]181

172 Word inserted by S.I. 1990/1502, art. 2
173 Amends Immigration Act 1971 (c. 77), ss. 3(1)(5)(6)(7)(8), 4(4), 5(2), 6(2), 8(2)(3)(4), 9(2)(4), 14(2), 24(1), 29(1), 33(1), Sch. 2 paras. 2(1)(a), 3(1), 6(1), 12(2), 13(2), 26(1), Sch. 4 paras. 1(1)(2), 3(1), 4
174 Amends Immigration Act 1971 (c. 77), ss. 3(1)(5)(6)(7)(8), 4(4), 5(2), 6(2), 8(2)(3)(4), 9(2)(4), 14(2), 24(1), 29(1), 33(1), Sch. 2 paras. 2(1)(a), 3(1), 6(1), 12(2), 13(2), 26(1), Sch. 4 paras. 1(1)(2), 3(1), 4
175 Amends Immigration Act 1971 (c. 77), ss. 33(1)
176 Amends Immigration Act 1971 (c. 77), s. 33(1)
177 Amends Immigration Act 1971 (c. 77), s. 8(5)
178 Substitutes Immigration Act 1971 (c. 77), s. 25(5)(a)-(c) for s. 25(5)(a)-(e)
179 Amends Immigration Act 1971 (c. 77), s. 33(1)
180 Inserts Immigration Act 1971 (c. 77), s. 33(2A)
SCHEDULE 5

Section 42(1)

[Existing Sch.5 is not repealed but has been substituted for a new Sch.5 consisting of paras.1–4] 183

[1]
The form of citizenship oath and pledge is as follows for registration of or naturalisation as a British citizen—

Oath
“I, [name], swear by Almighty God that, on becoming a British citizen, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law.”

Pledge
“I will give my loyalty to the United Kingdom and respect its rights and freedoms. I will uphold its democratic values. I will observe its laws faithfully and fulfil my duties and obligations as a British citizen.”

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[2]
The form of citizenship oath and pledge is as follows for registration of or naturalisation as a British overseas territories citizen—

Oath
“I, [name], swear by Almighty God that, on becoming a British overseas territories citizen, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law.”

Pledge
“I will give my loyalty to [name of territory] and respect its rights and freedoms. I will uphold its democratic values. I will observe its laws faithfully and fulfil my duties and obligations as a British overseas territories citizen.”

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[3]
The form of citizenship oath is as follows for registration of a British Overseas citizen—

“I, [name], swear by Almighty God that, on becoming a British Overseas citizen, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law.”

182 Existing Sch.5 is substituted for a new Sch.5 consisting of paras.1-4 by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.2 (January 1, 2004)
183 Existing Sch.5 is substituted for a new Sch.5 consisting of paras.1-4 by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.2 (January 1, 2004)
184 Existing Sch.5 is substituted for a new Sch.5 consisting of paras.1-4 by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.2 (January 1, 2004)
185 Existing Sch.5 is substituted for a new Sch.5 consisting of paras.1-4 by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.2 (January 1, 2004)
The form of citizenship oath is as follows for registration of a British subject—

“I, [name], swear by Almighty God that, on becoming a British subject, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law.”

SCHEDULE 6
[BRITISH OVERSEAS TERRITORIES] 188

Section 50(1)

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands […] 189
Gibraltar
[…] 190
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
[…] 191
St. Helena and Dependencies
[South Georgia and the South Sandwich Islands] 192
The Sovereign Base Areas of Akrotiri and Dhekelia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960)
Turks and Caicos Islands
Virgin Islands.

186 Existing Sch.5 is substituted for a new Sch.5 consisting of paras.1-4 by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.2 (January 1, 2004)
187 Existing Sch.5 is substituted for a new Sch.5 consisting of paras.1-4 by Nationality, Immigration and Asylum Act 2002 c. 41 Sch.1 para.2 (January 1, 2004)
188 Words substituted by British Overseas Territories Act 2002 c. 8 s.1(1)(c) (February 26, 2002)
189 Words repealed by British Nationality Act 1981 (Amendment of Schedule 6) Order 2001/3497 art.2(a) (December 4, 2001)
190 Words repealed by S.I. 1986/948, art. 5 it is provided that on and after 1st July 1997 the British Nationality Act 1981 shall have effect as if in Sch. 6 to that Act (British Dependent Territories) the words “Hong Kong” were omitted.
191 Words repealed by S.I. 1983/882, art. 2(b)
192 Words inserted by British Nationality Act 1981 (Amendment of Schedule 6) Order 2001/3497 art.2(b) (December 4, 2001)
SCHEDULE 7 CONSEQUENTIAL AMENDMENTS [...]^{193}

SCHEDULE 8

TRANSITIONAL PROVISIONS

Section 52(7)

Applications for naturalisation or registration pending at commencement

1.—

(1) This paragraph applies to any application—
   (a) for registration under any provision of the British Nationality Acts 1948 to 1965 as a citizen of the United Kingdom and Colonies or as a British subject; or
   (b) for a certificate of naturalisation under section 10 of the 1948 Act, which is received before commencement by a person authorised to receive it on behalf of the person to whom it is made but which at commencement has not been determined.

(2) In relation to any application to which this paragraph applies—
   (a) the British Nationality Acts 1948 to 1965 and all regulations and arrangements in force under them immediately before commencement shall (so far as applicable) continue to apply; and
   (b) this Act shall not apply;

but on the granting of such an application and the taking under those Acts of such other steps as are necessary for the person in question to become—

   (i) a citizen of the United Kingdom and Colonies by virtue of any provision of those Acts; or
   
   (ii) a British subject by virtue of registration under any provision of those Acts,

that person, instead of becoming a citizen or subject of that description, shall become under this Act such a citizen or subject as he would have become at commencement if, immediately before commencement, he had been such a citizen or subject as is mentioned in paragraph (i) or (ii), as the case may be.

^{193} Amends: Act of Settlement (12 & 13 Will. 3. c. 2.), s. 3Legitimacy Declaration Act 1858 (c. 93), s. 9; Submarine Telegraph Act 1885 (c. 49), s. 3(5); British Nationality Act 1948 (c. 56), s. 3; Ireland Act 1949 (c. 41), ss. 3, 7; Defamation Act 1952 (c. 66), Sch. Pt. III para. 14; Defamation Act (Northern Ireland) 1955 (c. 11), Sch. Pt. III, para. 14; Cyprus Act 1960 (c. 52), s. 6(1); Emergency Laws (Re-Enactments and Repeals) Act 1964 (c. 60), s. 9(2); Diplomatic Privileges Act 1964 (c. 81), s. 3; Commonwealth Secretariat Act 1966 (c. 10), Sch. Pt. II paras. 5(1), 7; West Indies Act 1967 (c. 4), s. 13(3), Sch. 3 paras. 4, 6; Marine etc. Broadcasting (Offences) Act 1967 (c. 41), s. 3(3); Antarctic Treaty Act 1967 (c. 65), s. 1(3); Consular Relations Act 1968 (c. 18), s. 1(2); Tanzania Act 1969 (c. 29), s. 4(3); Merchant Shipping Act 1970 (c. 36), ss. 70(3), 93(3); Children Act 1975 (c. 72), Sch. 1 Pt. II, para. 7(2)(a)(d), Sch. 2 para. 1(4)(a)(d); Adoption Act 1976 (c. 36), s. 47(2)(a)(d); National Health Service Act 1977 (c. 49), Sch. 11 para. 3; Solomon Islands Act 1978 (c. 15), s. 6; Adoption (Scotland) Act 1978 (c. 28), s. 41(2)(a)(d); National Health Service (Scotland) Act 1978 (c. 29), Sch. 10 para. 3; State Immunity Act 1978 (c. 33), s. 4(5); Deep Sea Mining (Temporary Provisions) Act 1981 (c. 53), ss. 1(4)(5)(a)(b), 14(3); partially repealed on February 8, 2007 by Wireless Telegraphy Act 2006 (c. 36) Sch. 9 Pt. I, s. 125; and amended on January 1, 2007 by Electoral Administration Act 2006 (c. 22) s. 18(7)
(3) Sub-paragraph (2) shall have effect as if the references in it to the British Nationality Acts 1948 to 1965 did, and as if the reference in paragraph (b) of it to this Act did not, include section 49 of this Act.

2. Where a person who has been registered or to whom a certificate of naturalisation has been granted before the passing of this Act has at commencement not yet taken the oath of allegiance, paragraph 1(2) shall apply as if the application on which he was registered or the certificate was granted were an application to which paragraph 1 applies.

Registration at U.K. consulate, after commencement, of certain births occurring in foreign countries less than a year before commencement

3.—

(1) This paragraph applies to a person born less than a year before commencement if—
   (a) the birth occurred in a place in a foreign country (within the meaning of the 1948 Act); and
   (b) at the time of the birth his father was a citizen of the United Kingdom and Colonies by descent only; and
   (c) the birth was not registered at a United Kingdom consulate before commencement.

(2) If the birth of a person to whom this paragraph applies is registered at a United Kingdom consulate within one year of its occurrence, he shall be deemed for the purposes of this Act to have been, immediately before commencement, a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent).

(3) References in this paragraph to the 1948 Act are references to that Act as in force at the time of the birth in question.

Declarations by certain persons who by virtue of an Order in Council under section 4 of the Cyprus Act 1960 have ceased to be citizens of the United Kingdom and Colonies

4.—

(1) Where—
   (a) a person has before commencement duly made a declaration under section 4(2) of the Cyprus Act 1960 of his intention to resume citizenship of the United Kingdom and Colonies; but
   (b) at commencement the declaration has not been registered,
the Secretary of State shall cause the declaration to be registered.

(2) If—
   (a) a person who in consequence of anything done before he attained the age of sixteen years ceased by virtue of an Order in Council under section 4 of the Cyprus Act 1960 to be a citizen of the United Kingdom and Colonies makes, in such a manner as the Secretary of State may direct, a declaration of his intention to accept the citizenship available to him under this paragraph; and
(b) the declaration is made by him after commencement and within one year after his attaining the age of twenty-one years,
the Secretary of State shall cause the declaration to be registered.

(3) On the registration under sub-paragraph (1) or (2) of any such declaration as is there mentioned the person who made it shall become under this Act such a citizen as he would have become at commencement if, immediately before commencement, he had been a citizen of the United Kingdom and Colonies by virtue of section 4(2) of the Cyprus Act 1960.

Applications for certificates of patriality pending at commencement

5. Any application for a certificate of patriality under the Immigration Act 1971 duly made but not determined before commencement shall be treated as if it were an application for a certificate of entitlement under that Act as amended by this Act.

Appeals under Part II of Immigration Act 1971

6. Where a person who has been refused a certificate of patriality under the Immigration Act 1971 before commencement has immediately before commencement a right of appeal under Part II (appeals) of that Act against the refusal, the provisions of that Part shall have effect in relation to the refusal as if he had applied for, and been refused, a certificate of entitlement under that Act as amended by this Act.

7. Any appeal under Part II of the Immigration Act 1971 against a refusal of a certificate of patriality under that Act which is pending immediately before commencement shall be treated as if it were an appeal against a refusal of a certificate of entitlement under that Act as amended by this Act.

8. In relation to appeals against any decision taken or other thing done under the Immigration Act 1971 before commencement, other than a refusal of a certificate of patriality under that Act, the provisions of that Act shall continue to apply as in force immediately before commencement, and not as amended by this Act.

SCHEDULE 9 […]\textsuperscript{194}

\textsuperscript{194} Specifies enactments repealed by s. 52(8)