



# British Nationality Act 1981

## 1981 CHAPTER 61

### PART I

#### BRITISH CITIZENSHIP

##### *Acquisition after commencement*

#### **1 Acquisition by birth or adoption.**

- (1) A person born in the United Kingdom after commencement 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) A new-born infant who, after commencement, is found abandoned in the United Kingdom 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; 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.
- (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.
- (4) 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.

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- (5) Where after commencement an order authorising the adoption of a minor who is not a British citizen is made by any court in the United Kingdom, he shall be a British citizen 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 citizen on that date.
- (6) Where an order 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.

**Modifications etc. (not altering text)**

C1 S. 1(1) explained by S.I. 1972/1613, art. 6 (as inserted by S.I. 1982/1649, art. 3)

## 2 Acquisition by descent.

- (1) A person born outside the United Kingdom after commencement shall be a British citizen if at the time of the birth his father or mother—
  - (a) is a British citizen otherwise than by descent; or
  - (b) is a British citizen and is serving outside the United Kingdom in service to which this paragraph applies, his or her recruitment for that service having taken place in the United Kingdom; or
  - (c) is a British citizen and is serving outside the United Kingdom 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; 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 of Her Majesty's government in the United Kingdom.
- (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.

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- (2) A person born outside the United Kingdom 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
  - (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 at the beginning of that period; and
    - (ii) the number of days on which the parent in question was absent from the United Kingdom 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 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 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 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 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;
  - (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; and
  - (c) if he was born illegitimate, all those references shall be read as references to his mother.

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#### 4 Acquisition by registration: British Dependent Territories citizens etc.

- (1) This section applies to any person who is a British Dependent Territories citizen, [<sup>F1</sup>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.
- (6) Subsection (5) applies to—
  - (a) Crown service under the government of a dependent territory; and
  - (b) paid or unpaid service (not falling within paragraph (a)) as a member of any body established by law in a dependent territory members of which are appointed by or on behalf of the Crown.

#### Textual Amendments

- F1** By S.I. 1986/948, [art. 7\(2\)](#) it is provided that [s. 4\(1\)](#) shall have effect as if after the words “British Dependent Territories citizen,” there were inserted the words “a British National (Overseas),”

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**Modifications etc. (not altering text)**

- C2** S. 4(2)(4) modified (7.11.2002, partly retrospective) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [s. 11](#)
- C3** S. 4(2)(4) modified (7.11.2002, partly retrospective) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [s. 11](#)

VALID FROM 21/05/2002

**[<sup>F2</sup>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.]

**Textual Amendments**

- F2** S. 4A inserted (21.5.2002) by the [British Overseas Territories Act 2002 \(c. 8\)](#), [s. 4](#); S.I. 2002/1252, [art. 2](#)

**Modifications etc. (not altering text)**

- C4** S. 4A restricted (4.12.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [ss. 58, 62](#); S.I. 2006/2838, [art. 4\(1\)](#) (subject to [art. 4\(2\)](#))

VALID FROM 30/04/2003

**[<sup>F3</sup>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

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- (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.]

#### Textual Amendments

- F3** S. 4B inserted (30.4.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 12(1), 162 (with s. 159); S.I. 2003/754, art. 2(1), Sch. 1 (with arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, art. 2 and S.I. 2003/1339, art. 4))

VALID FROM 30/04/2003

#### [<sup>F4</sup>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.
- (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.]

#### Textual Amendments

- F4** S. 4C inserted (30.4.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 13(1), 162 (with s. 159); S.I. 2003/754, art. 2(1), Sch. 1 (with arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, art. 2 and S.I. 2003/1339, art. 4))

#### Modifications etc. (not altering text)

- C5** S. 4C restricted (4.12.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 58, 62; S.I. 2006/2838, art. 4(1) (subject to art. 4(2))

VALID FROM 13/01/2010

#### [<sup>F5</sup>4D Acquisition by registration: children of members of the armed forces

- (1) A person (“P”) born outside the United Kingdom and the qualifying territories on or after the relevant day is entitled to be registered as a British citizen if—

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- (a) an application is made for P's registration under this section; and
  - (b) each of the following conditions is satisfied.
- (2) The first condition is that, at the time of P's birth, P's father or mother was—
    - (a) a member of the armed forces; and
    - (b) serving outside the United Kingdom and the qualifying territories.
  - (3) The second condition is that, if P is a minor on the date of the application, the consent of P's father and mother to P's registration as a British citizen has been signified in the prescribed manner.
  - (4) But if P's father or mother has died on or before the date of the application, the reference in subsection (3) to P's father and mother is to be read as a reference to either of them.
  - (5) The Secretary of State may, in the special circumstances of a particular case, waive the need for the second condition to be satisfied.
  - (6) The relevant day for the purposes of this section is the day appointed for the commencement of section 46 of the Borders, Citizenship and Immigration Act 2009 (which inserted this section).]

#### Textual Amendments

- F5** S. 4D inserted (13.1.2010) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 46, 58](#); [S.I. 2009/2731](#), [art. 4\(e\)](#)

## 5 Acquisition by registration: nationals for purposes of the Community Treaties.

A British Dependent 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.

VALID FROM 21/05/2002

## 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, 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.

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*Acquisition after commencement: special cases*

**7 Right to registration by virtue of residence in U.K. or relevant employment.**

- (1) A person shall be entitled, on an application for his registration as a British citizen made (subject to subsections (6) and (7)) within five years after commencement, to be registered as such a citizen if either of the following requirements is satisfied in his case, namely—
- (a) that, if paragraphs 2 and 3 (but not paragraph 4 or 5) of Schedule 1 to the <sup>M1</sup>Immigration Act 1971 had remained in force, he would (had he applied for it) have been, on the date of the application under this subsection, entitled under the said paragraph 2 to be registered in the United Kingdom as a citizen of the United Kingdom and Colonies; or
  - (b) that, if section 5A of the 1948 Act (and section 2 of the Immigration Act 1971 as in force immediately before commencement) had remained in force, he would (had he applied for it) have been, both at commencement and on the date of the application under this subsection, entitled under section 5A(1) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies.
- (2) A person shall be entitled, on an application for his registration as a British citizen made (subject to subsection (8)) within six years after commencement, to be registered as such a citizen if he—
- (a) was ordinarily resident in the United Kingdom throughout a period ending at commencement but not amounting to five years; and
  - (b) throughout the period from commencement to the date of the application—
    - (i) remained ordinarily resident in the United Kingdom; and
    - (ii) had the right of abode in the United Kingdom under the <sup>M2</sup>Immigration Act 1971; and
  - (c) had on the date of the application been ordinarily resident in the United Kingdom for the last five years or more.
- (3) Subject to subsection (5), if, in the case of an application for the registration of a person under subsection (2) as a British citizen, that person has been engaged in relevant service throughout any period (of whatever length), that period shall for the purposes of subsection (2) be treated as a period throughout which he was ordinarily resident in the United Kingdom.
- (4) For the purposes of subsection (3) “relevant service” means—
- (a) Crown service under the government of the United Kingdom; or
  - (b) service under any international organisation of which the United Kingdom or Her Majesty’s government therein is a member; or
  - (c) service in the employment of any company or association established in the United Kingdom.
- (5) A person shall not be registered under subsection (2) wholly or partly by reason of service within subsection (4)(b) or (c) unless it seems to the Secretary of State fitting that he should be so registered by reason of his close connection with the United Kingdom.
- (6) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat subsection (1) as if—



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- (a) the reference to five years after commencement were a reference to eight years after commencement; or
- (b) where subsection (7) applies, as if the reference to five years from the date on which the person to whom the application relates attains full age were a reference to eight years from that date,

but shall not do so in the case of an application based on paragraph (b) of subsection (1) unless the person to whom the application relates would have been entitled to be registered under that subsection on an application so based made immediately before the end of the five years after commencement.

- (7) In the case of any person who is a minor at commencement, the reference to five years after commencement in subsection (1) above shall be treated as a reference to five years from the date on which he attains full age.
- (8) 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 six years after commencement were a reference to eight years after commencement.

#### Marginal Citations

- M1 1971 c. 77.
- M2 1971 c. 77.

## 8 Registration by virtue of marriage.

- (1) A woman who immediately before commencement was the wife of a citizen of the United Kingdom and Colonies shall be entitled, on an application for her registration as a British citizen made within five years after commencement, to be registered as a British citizen if—
  - (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of her marriage to the man who was then her husband; and
  - (b) that man became a British citizen at commencement and did not at any time in the period from commencement to the date of the application under this subsection cease to be such a citizen as a result of a declaration of renunciation; and
  - (c) she remained married to him throughout that period.
- (2) On an application for her registration as a British citizen made within five years after commencement, the Secretary of State may, if he thinks fit, cause a woman to be registered as such a citizen if—
  - (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of having been married to a man to whom she is no longer married on the date of the application under this subsection; and
  - (b) that man became a British citizen at commencement or would have done so but for his death.

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- (3) On an application for her registration as a British citizen made within five years after commencement by a woman who at the time of the application is married, the Secretary of State may, if he thinks fit, cause her to be registered as such a citizen if—
- (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of her being or having been married to the man who is her husband on the date of the application under this subsection; and
  - (b) that man either—
    - (i) became a British citizen at commencement but has ceased to be such a citizen as a result of a declaration of renunciation; or
    - (ii) would have become a British citizen at commencement but for his having ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation.

## 9 Right to registration by virtue of father's citizenship etc.

- (1) A person born in a foreign country within five years after commencement shall be entitled, on an application for his registration as a British citizen made within the period of twelve months from the date of the birth, to be registered as such a citizen if—
- (a) the requirements specified in subsection (2) are fulfilled in the case of that person's father; and
  - (b) had that person been born before commencement and become a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent) as a result of the registration of his birth at a United Kingdom consulate under paragraph (b) of the proviso to section 5(1) of that Act, he would immediately before commencement have had the right of abode in the United Kingdom by virtue of section 2(1)(b) of the <sup>M3</sup>Immigration Act 1971 as then in force (connection with United Kingdom through parent or grandparent).
- (2) The requirements referred to in subsection (1)(a) are that the father of the person to whom the application relates—
- (a) immediately before commencement or at his death (whichever was earlier)—
    - (i) was a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent) or 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; and
    - (ii) was married to that person's mother; and
    - (iii) was ordinarily resident in a foreign country (no matter which) within the meaning of the 1948 Act; and
  - (b) either—
    - (i) became a British citizen at commencement and remained such a citizen throughout the period from commencement to the date of the application or, if he died during that period, throughout the period from commencement to his death; or

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- (ii) would have become a British citizen at commencement but for his death.

**Marginal Citations**

M3 1971 c. 77.

**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 <sup>M4</sup>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 the United Kingdom or, if a woman, 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) if a woman, has been married to 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.

**Marginal Citations**

M4 1964 c. 22.

*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 <sup>M5</sup>Immigration Act 1971 as then in force,

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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 <sup>M6</sup>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
  - (b) 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.

#### Marginal Citations

**M5** 1971 c. 77.

**M6** 1964 c. 54.

### *Renunciation and resumption*

#### Modifications etc. (not altering text)

**C6** S. 12 extended by S.I. 1986/948, art. 7(10)

## 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

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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 shall be deemed to be of full age.

**Modifications etc. (not altering text)**

C7 S. 12 extended by S.I. 1986/948, art. 7(10)

### 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.

**Modifications etc. (not altering text)**

C8 S. 13(1)(3) restricted (4.12.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 58, 62; S.I. 2006/2838, art. 4(1) (subject to art. 4(2))

### 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—

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- (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 <sup>M7</sup>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 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 dependent 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

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- (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).

#### Marginal Citations

M7 1971 c. 77.

## PART II

### BRITISH DEPENDENT TERRITORIES CITIZENSHIP

#### Modifications etc. (not altering text)

C9 Pt. II (ss. 15–25) excluded by S.I. 1983/882, art. 2(3)

#### *Acquisition after commencement*

#### 15 Acquisition by birth or adoption.

- (1) A person born in a dependent territory after commencement shall be a British Dependent Territories citizen if at the time of the birth his father or mother is—
  - (a) a British Dependent Territories citizen; or
  - (b) settled in a dependent territory.
- (2) A new-born infant who, after commencement, is found abandoned in a dependent territory 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 Dependent Territories citizen or settled in a dependent territory.
- (3) A person born in a dependent territory after commencement who is not a British Dependent Territories citizen 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 dependent territory; and
  - (b) an application is made for his registration as such a citizen.
- (4) A person born in a dependent territory after commencement who is not a British Dependent Territories citizen by virtue of subsection (1) or (2) shall be entitled, on an application for his registration as a British Dependent Territories 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 that territory in that year does not exceed 90.

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- (5) Where after commencement an order authorising the adoption of a minor who is not a British Dependent Territories citizen is made by a court in any dependent territory, he shall be a British Dependent Territories citizen 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 Dependent Territories citizen on that date.
- (6) Where an order in consequence of which any person became a British Dependent Territories 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 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 dependent territory there mentioned in that year or each of the years in question exceeds 90.

## **16 Acquisition by descent.**

- (1) A person born outside the dependent territories after commencement shall be a British Dependent Territories citizen 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 dependent territories in service to which this paragraph applies, his or her recruitment for that service having taken place in a dependent territory.
- (2) Paragraph (b) of subsection (1) applies to—
  - (a) Crown service under the government of a dependent territory; 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 dependent territories of the government of any dependent territory.
- (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 Dependent Territories 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 dependent territories shall be entitled, on an application for his registration as a British Dependent 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—



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- (a) that the parent in question was a British Dependent 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 Dependent Territories citizen otherwise than by descent at the time of the birth of the parent in question; or
    - (ii) became a British Dependent 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 dependent 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 dependent territories shall be entitled, and on application for his registration as a British Dependent 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 Dependent Territories citizen by descent; and
  - (b) subject to subsection (6), that that person and his father and mother were in one and the same dependent 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 Dependent Territories citizen—
- (a) if his father or mother died, or their marriage 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;
  - (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; and
  - (c) if he was born illegitimate, all those references shall be read as references to his mother.

## 18 Acquisition by naturalisation.

- (1) If, on an application for naturalisation as a British Dependent 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

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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 Dependent Territories citizen made by a person of full age and capacity who on the date of the application is married to 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 dependent 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 Right to registration by virtue of residence in dependent territory.

- (1) A person shall be entitled, on an application for his registration as a British Dependent Territories citizen made within five years, after commencement, to be registered as such a citizen if, had paragraphs 2 to 5 of Schedule 1 to the <sup>M8</sup>Immigration Act 1971 remained in force, he would (had he applied for it) have been, on the date of the application under this subsection, entitled under the said paragraph 2 to be registered in a dependent territory as a citizen of the United Kingdom and Colonies.
- (2) In the case of any person who is a minor at commencement, the reference to five years after commencement in subsection (1) shall be treated as a reference to five years from the date on which he attains full age.
- (3) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat subsection (1) as if—
  - (a) the reference to five years after commencement were a reference to eight years after commencement; or
  - (b) where subsection (2) applies, as if the reference to five years from the date on which the person to whom the application relates attains full age were a reference to eight years from that date.

### Marginal Citations

M8 1971 c. 77.

## 20 Registration by virtue of marriage.

- (1) A woman who immediately before commencement was the wife of a citizen of the United Kingdom and Colonies shall be entitled, on an application for her registration as a British Dependent Territories citizen made within five years after commencement, to be registered as a British Dependent Territories citizen if—
  - (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of her marriage to the man who was then her husband; and

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- (b) that man became a British Dependent Territories citizen at commencement and did not at any time in the period from commencement to the date of the application under this subsection cease to be such a citizen as a result of a declaration of renunciation; and
  - (c) she remained married to him throughout that period.
- (2) On an application for her registration as a British Dependent Territories citizen made within five years after commencement the Secretary of State may, if he thinks fit, cause a woman to be registered as a citizen if—
  - (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of having been married to a man to whom she is no longer married on the date of the application under this subsection; and
  - (b) that man became a British Dependent Territories citizen at commencement or would have done so but for his death.
- (3) On an application for her registration as a British Dependent Territories citizen made within five years after commencement by a woman who at the time of the application is married, the Secretary of State may, if he thinks fit, cause her to be registered as such a citizen if—
  - (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of her being or having been married to the man who is her husband on the date of the application under this subsection; and
  - (b) that man either—
    - (i) became a British Dependent Territories citizen at commencement but has ceased to be such a citizen as a result of a declaration of renunciation; or
    - (ii) would have become a British Dependent Territories citizen at commencement but for his having ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation.

## **21 Right to registration by virtue of father's citizenship etc.**

A person born in a foreign country within five years after commencement shall be entitled, on an application for his registration as a British Dependent Territories citizen made within the period of twelve months from the date of the birth, to be registered as such a citizen if—

- (a) the requirements referred to in subsection (1)(a) of section 9 are fulfilled in the case of that person's father, subsection (2)(b) of that section being for the purposes of this paragraph read as if any reference to becoming or remaining a British citizen were a reference to becoming or, as the case may be, remaining a British Dependent Territories citizen; and
- (b) had that person been born before commencement and become a citizen of the United Kingdom and Colonies as mentioned in subsection (1) (b) of that section, he would at commencement have become a British Dependent Territories citizen by virtue of section 23(1)(b).

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## 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 Dependent 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 <sup>M9</sup>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 dependent territory or, if a woman, 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 Dependent Territories 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 Dependent Territories citizen if that person—
  - (a) has an appropriate qualifying connection with a dependent territory; or
  - (b) if a woman, has been married to 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 dependent territory 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.

### Marginal Citations

M9 1964 c. 22.

### *Acquisition at commencement*

## 23 Citizens of U.K. and Colonies who are to become British Dependent Territories citizens at commencement.

- (1) A person shall at commencement become a British Dependent Territories citizen 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 dependent territory; 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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- (ii) who either had that citizenship at the material time by his birth, naturalisation or registration in a dependent 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 Dependent Territories citizen at commencement or would have done so but for his death.
- (2) A person shall at commencement become a British Dependent 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 <sup>M10</sup>British Nationality (No. 2) Act 1964 (stateless persons); and
  - (b) he was so registered otherwise than in a dependent 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 Dependent 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 dependent 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 Dependent Territories citizen if the relevant person—
  - (i) was born or naturalised in a dependent territory; or
  - (ii) became a British subject by reason of the annexation of any territory included in a dependent 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 <sup>M11</sup>British Nationality Act 1964 (resumption of citizenship); and
  - (b) was so registered otherwise than in a dependent territory; and
  - (c) was so registered by virtue of having an appropriate qualifying connection with a dependent 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 Dependent Territories citizen.

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

#### Marginal Citations

**M10** 1964 c. 54.

**M11** 1964 c. 22.

### *Renunciation and resumption*

#### **24 Renunciation and resumption.**

The provisions of sections 12 and 13 shall apply in relation to British Dependent Territories citizens and British Dependent Territories citizenship as they apply in relation to British citizens and British citizenship.

### *Supplementary*

#### **25 Meaning of British Dependent Territories citizen “by descent”.**

- (1) For the purposes of this Act a British Dependent Territories citizen is such a citizen “by descent” if and only if—
- (a) he is a person born outside the dependent territories after commencement who is a British Dependent Territories citizen 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 dependent territories before commencement who became a British Dependent Territories 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
  - (c) he is a British Dependent Territories citizen by virtue of registration under section 17(1) and either—
    - (i) his father or mother was a British Dependent Territories citizen at the time of the birth; or

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- (ii) his father or mother was a citizen of the United Kingdom and Colonies at that time and became a British Dependent Territories citizen at commencement, or would have done so but for his or her death; or
  - (d) subject to subsection (2), he is a person born outside the dependent territories before commencement who became a British Dependent Territories citizen at commencement under section 23(1)(b) only; or
  - (e) subject to subsection (2), being a woman, she became a British Dependent 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 Dependent 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 dependent territories before commencement, she is a British Dependent 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 Dependent 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 Dependent Territories citizen by descent by virtue of paragraph (b), (d) or (e);
  - (h) he is a British Dependent Territories citizen by virtue of registration under section 13 (as applied by section 24) who, immediately before he ceased to be a British Dependent 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 Dependent Territories citizen by virtue of paragraph 1 of Schedule 2.
- (2) A person born outside the dependent territories before commencement is not a British Dependent 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 dependent territories in service of a description mentioned in subsection (3), his recruitment for the service in question having taken place in a dependent territory.
- (3) The descriptions of service referred to in subsection (2) are—
- (a) Crown service under the government of a dependent territory; and
  - (b) service of any description at any time designated under section 16(3).

### PART III

#### BRITISH OVERSEAS CITIZENSHIP

#### **26 Citizens of U.K. and Colonies who are to become British Overseas citizens at commencement.**

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

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citizen or a British Dependent Territories citizen shall at commencement become a British Overseas citizen.

## 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) A person born in a foreign country within five years after commencement shall be entitled, on an application for his registration as a British Overseas citizen made within the period of twelve months from the date of the birth, to be registered as such a citizen if—
  - (a) the requirements referred to in subsection (1)(a) of section 9 are fulfilled in the case of that person's father, subsection (2)(b) of that section being for the purposes of this paragraph read as if—
    - (i) any reference to becoming a British citizen were a reference to becoming a citizen of any of the following descriptions, namely a British citizen, a British Dependent Territories citizen and a British Overseas citizen; and
    - (ii) the reference to remaining a British citizen throughout any period were a reference to being throughout that period a citizen of at least one of those descriptions (though not necessarily the same one) throughout that period; and
  - (b) had that person been born before commencement and become a citizen of the United Kingdom and Colonies as mentioned in subsection (1)(b) of that section, he would at commencement have become a British Overseas citizen by virtue of section 26.

## 28 Registration by virtue of marriage.

- (1) A woman who immediately before commencement was the wife of a citizen of the United Kingdom and Colonies shall be entitled, on an application for her registration as a British Overseas citizen made within five years after commencement, to be registered as a British Overseas citizen if—
  - (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of her marriage to the man who was then her husband; and
  - (b) that man became a British Overseas citizen at commencement and did not at any time in the period from commencement to the date of the application under this subsection cease to be such a citizen as a result of a declaration of renunciation; and
  - (c) she remained married to him throughout that period.
- (2) On an application for her registration as a British Overseas citizen made within five years after commencement, the Secretary of State may, if he thinks fit, cause a woman to be registered as such a citizen if—
  - (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of having been married to a



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- man to whom she is no longer married on the date of the application under this subsection; and
- (b) that man became a British Overseas citizen at commencement or would have done so but for his death.
- (3) On an application for her registration as a British Overseas citizen made within five years after commencement by a woman who at the time of the application is married, the Secretary of State may, if he thinks fit, cause her to be registered as such a citizen if—
- (a) immediately before commencement she would (if she had applied for it) have been entitled under section 6(2) of the 1948 Act to be registered as a citizen of the United Kingdom and Colonies by virtue of her being or having been married to the man who is her husband on the date of the application under this subsection; and
- (b) that man either—
- (i) became a British Overseas citizen at commencement but has ceased to be such a citizen as a result of a declaration of renunciation; or
- (ii) would have become a British Overseas citizen at commencement but for his having ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation.

## 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 <sup>M12</sup>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.

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### Marginal Citations

M12 1965 c. 34.

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### **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 dependent territory,
 he shall as from that time be a British subject by virtue of this subsection.
- (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.

#### **Modifications etc. (not altering text)**

**C10** S. 32 restricted (4.12.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [ss. 58, 62](#); [S.I. 2006/2838](#), [art. 4\(1\)](#) (subject to [art. 4\(2\)](#))

### **33 Registration of certain alien women entitled to registration as British subjects immediately before commencement.**

A woman who immediately before commencement was the wife of a British subject shall be entitled, on an application for her registration as a British subject made within five years after commencement, to be registered as a British subject if—

- (a) immediately before commencement she would (if she had applied for it) have been entitled under section 1 of the <sup>M13</sup>British Nationality Act 1965 to be registered as a British subject by virtue of her marriage to the man who was then her husband; and
- (b) on the date of the application under this section that man is a British subject; and
- (c) she remained married to him throughout the period from commencement to that date.

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#### Marginal Citations

M13 1965 c. 34.

### 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

#### Modifications etc. (not altering text)

C11 Pt. V (ss. 36–53) extended by S.I. 1983/882, art. 3(5)

### 36 Provisions for reducing statelessness.

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

#### Modifications etc. (not altering text)

C12 S. 37 extended by British Nationality (Hong Kong) Act 1990 (c. 34, SIF 87), s. 2(3)

### 37 Commonwealth citizenship.

- (1) Every person who—
  - (a) under [<sup>F6</sup>the British Nationality Acts 1981 and 1983] is a British citizen, a British Dependent Territories citizen, [<sup>F7</sup>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.
- (3) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (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.

#### Textual Amendments

- F6** Words substituted by [British Nationality \(Falkland Islands\) Act 1983 \(c. 6, SIF 87\), s. 4\(3\)](#)
- F7** By [S.I. 1986/948, art. 7\(3\)\(b\)](#) it is provided that [s. 37](#) shall have effect as if in subsection (1)(a) after the words “British Dependent Territories citizen,” there were inserted the words “a British National (Overseas),”

#### Modifications etc. (not altering text)

- C13** [S. 37](#) modified (19.3.1997) by [1997 c. 20, s. 2\(3\)](#)
- C14** [S. 37](#) amended (18.7.1996) by [1996 c. 41, s. 2\(2\)](#)
- C15** [S. 37\(1\)\(a\)](#) amended by [S.I. 1986/948, art. 7\(3\)\(a\)](#)

### 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.

### <sup>x1</sup>39 Amendment of Immigration Act 1971.

- (1) The Immigration Act 1971 shall be amended in accordance with the following provisions of this section.
- (2) For section 2 (statement of right of abode) there shall be substituted—

#### “2 Statement of right of abode in United Kingdom.

- (1) A person is under this Act to have the right of abode in the United Kingdom if—
- (a) he is a British citizen; or
  - (b) he is a Commonwealth citizen who—
    - (i) immediately before the commencement of the British Nationality Act 1981 was a Commonwealth citizen having the right of abode in the United Kingdom by virtue of section 2(1)(d) or section 2(2) of this Act as then in force; and
    - (ii) has not ceased to be a Commonwealth citizen in the meanwhile.
- (2) In relation to Commonwealth citizens who have the right of abode in the United Kingdom by virtue of subsection (1)(b) above, this Act, except this

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section and sections 3(9) and (9A), 5(2) and 13(3), shall apply as if they were British citizens; and in this Act, (except as aforesaid) “British citizen” shall be construed accordingly.”

<sup>F8</sup>(3) .....

(4) In section 8 (except for special cases), after subsection (5) there shall be inserted—

“(5A) An order under subsection (2) above may, as regards any person or class of persons to whom it applies, provide for that person or class to be in specified circumstances regarded (notwithstanding the order) as settled in the United Kingdom for the purposes of section 1(1) of the British Nationality Act 1981.”

<sup>F8</sup>(5) .....

(6) Schedule 4 (which contains further amendments of the <sup>M14</sup>Immigration Act 1971) shall have effect.

(7) In section 90 of the <sup>M15</sup>Mental Health Act 1959 and section 82 of the <sup>M16</sup>Mental Health (Scotland) Act 1960 (removal of non-patrial in-patients to places outside the United Kingdom), for the words from “any patient” to “1971 and” (which were substituted for “any person being an alien” by section 30(1) of the Immigration Act 1971) there shall be substituted “any patient who is neither a British citizen nor a Commonwealth citizen having the right of abode in the United Kingdom by virtue of section 2(1)(b) of the Immigration Act 1971, being a patient”.

(8) A certificate of patriality issued under the <sup>M17</sup>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 [<sup>F9</sup>as in force after commencement], unless at commencement the holder ceases to have the right of abode in the United Kingdom.

#### Editorial Information

**X1** The text of s. 39(1)-(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Textual Amendments

**F8** S. 39(3)(5) repealed by [Immigration Act 1988 \(c. 14, SIF 62\), s. 3\(3\)](#)

**F9** Words substituted by [Immigration Act 1988 \(c. 14, SIF 62\), s. 3\(3\)](#)

#### Modifications etc. (not altering text)

**C16** S. 39(1) extended (Isle of Man) (13.3.2008 for specified purposes and otherwise 1.5.2008) by [The Immigration \(Isle of Man\) Order 2008 \(S.I. 2008/680\), arts. 1\(2\), 5, 8\(2\)\(a\)](#)

**C17** S. 39(2) extended (Isle of Man) (13.3.2008 for specified purposes and otherwise 1.5.2008) by [The Immigration \(Isle of Man\) Order 2008 \(S.I. 2008/680\), arts. 1\(2\), 5, 8\(2\)\(a\)](#)

**C18** S. 39(4) extended (Isle of Man) (13.3.2008 for specified purposes and otherwise 1.5.2008) by [The Immigration \(Isle of Man\) Order 2008 \(S.I. 2008/680\), arts. 1\(2\), 5, 8\(2\)\(a\)](#)

**C19** S. 39(6) extended in part (Isle of Man) (13.3.2008 for specified purposes and otherwise 1.5.2008) by [The Immigration \(Isle of Man\) Order 2008 \(S.I. 2008/680\), arts. 1\(2\), 5, 8\(2\)\(b\)](#)

#### Marginal Citations

**M14** 1971 c. 77.

**M15** 1959 c. 72.

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**M16** 1960 c. 61.

**M17** 1971 c. 77.

#### 40 Deprivation of citizenship.

- (1) Subject to the provisions of this section, the Secretary of State may by order deprive any British citizen to whom this subsection applies of his British citizenship if the Secretary of State is satisfied that the registration or certificate of naturalisation by virtue of which he is such a citizen was obtained by means of fraud, false representation or the concealment of any material fact.
- (2) Subsection (1) applies to any British citizen who—
  - (a) became a British citizen after commencement by virtue of—
    - (i) his registration as a British citizen under any provision of [F10 the British Nationality Acts 1981 and 1983]; or
    - (ii) a certificate of naturalisation granted to him under section 6; or
  - (b) being immediately before commencement a citizen of the United Kingdom and Colonies by virtue of registration as such a citizen under any provision of the British Nationality Acts 1948 to 1964, became at commencement a British citizen; or
  - (c) at any time before commencement became a British subject (within the meaning of that expression at that time), or a citizen of Eire or of the Republic of Ireland, by virtue of a certificate of naturalisation granted to him or in which his name was included.
- (3) Subject to the provisions of this section, the Secretary of State may by order deprive any British citizen to whom this subsection applies of his British citizenship if the Secretary of State is satisfied that that citizen—
  - (a) has shown himself by act or speech to be disloyal or disaffected towards Her Majesty; or
  - (b) has, during any war in which Her Majesty was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or
  - (c) has, within the period of five years from the relevant date, been sentenced in any country to imprisonment for a term of not less than twelve months.
- (4) Subsection (3) applies to any British citizen who falls within paragraph (a) or (c) of subsection (2); and in subsection (3) “the relevant date”, in relation to a British citizen to whom subsection (3) applies, means the date of the registration by virtue of which he is such a citizen or, as the case may be, the date of the grant of the certificate of naturalisation by virtue of which he is such a citizen.
- (5) The Secretary of State—
  - (a) shall not deprive a person of British citizenship under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a British citizen; and
  - (b) shall not deprive a person of British citizenship under subsection (3) on the ground mentioned in paragraph (c) of that subsection if it appears to him that that person would thereupon become stateless.

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- (6) Before making an order under this section the Secretary of State shall give the person against whom the order is proposed to be made notice in writing informing him of the ground or grounds on which it is proposed to be made and of his right to an inquiry under this section.
- (7) If the person against whom the order is proposed to be made applies in the prescribed manner for an inquiry, the Secretary of State shall, and in any other case the Secretary of State may, refer the case to a committee of inquiry consisting of a chairman, being a person possessing judicial experience, appointed by the Secretary of State and of such other members appointed by the Secretary of State as he thinks proper.
- (8) The Secretary of State may make rules for the practice and procedure to be followed in connection with references under subsection (7) to a committee of inquiry; and such rules may, in particular, provide for conferring on any such committee any powers, rights or privileges of any court, and for enabling any powers so conferred to be exercised by one or more members of the committee.
- (9) The power of the Secretary of State to make rules under subsection (8) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The preceding provisions of this section shall apply in relation to British Dependent Territories citizens and British Dependent Territories citizenship as they apply in relation to British citizens and British citizenship, but as if in subsection (2)(a)(ii) the reference to section 6 were a reference to section 18.

#### Textual Amendments

**F10** Words substituted by [British Nationality \(Falkland Islands\) Act 1983 \(c. 6, SIF 87\), s. 4\(3\)](#)

#### Modifications etc. (not altering text)

**C20** Ss. 40–42, 44–48, 50 extended by [British Nationality \(Hong Kong\) Act 1990 \(c. 34, SIF 87\), s. 2\(3\)](#)

**C21** S. 40 extended by [S.I. 1986/948, art.7\(11\)](#)

**C22** S. 40 modified (19.3.1997) by [1997 c. 20, s. 2\(3\)](#)

**C23** S. 40 amended (18.7.1996) by [1996 c. 41, s. 2\(2\)](#)

VALID FROM 01/04/2003

#### **[<sup>F11</sup>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 an adjudicator appointed under section 81 of the Nationality, Immigration and Asylum Act 2002 (immigration appeal).
- (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



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- (c) otherwise in the public interest.
- (3) A party to an appeal to an adjudicator under subsection (1) may, with the permission of the Immigration Appeal Tribunal, appeal to the Tribunal against the adjudicator's determination on a point of law.
- (4) A party to an appeal to the Immigration Appeal Tribunal under subsection (3) may bring a further appeal on a point of law—
  - (a) where the decision of the adjudicator was made in Scotland, to the Court of Session, or
  - (b) in any other case, to the Court of Appeal.
- (5) An appeal under subsection (4) may be brought only with the permission of—
  - (a) the Tribunal, or
  - (b) if the Tribunal refuses permission, the court referred to in subsection (4)(a) or (b).
- (6) An order under section 40 may not be made in respect of a person while an appeal under this section or section 2B of the Special Immigration Appeals Commission Act 1997 (c. 68)—
  - (a) has been instituted and has not yet been finally determined, withdrawn or abandoned, or
  - (b) could be brought (ignoring any possibility of an appeal out of time with permission).
- (7) Rules under section 106 of the Nationality, Immigration and Asylum Act 2002 (immigration appeal: rules) may make provision about an appeal under this section.
- (8) Directions under section 107 of that Act (practice directions) may make provision about an appeal under this section.]

#### Textual Amendments

- F11** Ss. 40, 40A substituted (1.4.2003) for s. 40 by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 4\(1\)\(4\)](#), 162 (with [s. 159](#)); [S.I. 2003/754](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3, 4](#), [Sch. 2](#) (as amended by [S.I. 2003/1040](#), [art. 2](#) and [S.I. 2003/1339](#), [art. 4](#)))

## 41 Regulations and Orders in Council.

- (1) The Secretary of State may by regulations make provision generally for carrying into effect the purposes of this Act, and in particular provision—
  - (a) for prescribing anything which under this Act is to be prescribed;
  - (b) for prescribing the manner in which, and the persons to and by whom, applications for registration or naturalisation under any provision of this Act may or must be made;
  - (c) for the registration of anything required or authorised by or under this Act to be registered;
  - (d) for the administration and taking of oaths of allegiance under this Act, as to the time within which oaths of allegiance must be taken, and for the registration of oaths of allegiance;



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- (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 [<sup>F12</sup>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 Dependent Territories citizens, [<sup>F13</sup>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.
- (2) The Secretary of State may with the consent of the Treasury by regulations make provision for the imposition, recovery and application of fees in connection with any of the following matters, namely—
- (a) any application made to the Secretary of State under this Act [<sup>F14</sup>other than an application for the purpose of acquiring the status of a British National (Overseas)];
  - (b) the effecting in the United Kingdom of any registration authorised by or under this Act [<sup>F15</sup>other than registration as a British National (Overseas)];
  - (c) the making in the United Kingdom of any declaration, the grant there of any certificate, or the taking there of any oath of allegiance authorised to be made, granted or taken by or under this Act;
  - (d) the supplying in the United Kingdom of a certified or other copy of any notice, certificate, order, declaration or entry given, granted or made under or by virtue of this Act or any of the former nationality Acts;
  - (e) the carrying out of searches in or of any registers or other records, being registers or records held in the United Kingdom by or on behalf of the Secretary of State, which are or may be relevant for the purpose of determining the status of any person under this Act or any of the former nationality Acts;
  - (f) the supplying by or on behalf of the Secretary of State of an opinion in writing concerning the status of any person under this Act or any of the former nationality Acts, or a certified or other copy of such an opinion.
- (3) Regulations under subsection (1) or (2) may make different provision for different circumstances; and—
- (a) regulations under subsection (1) may provide for the extension of any time-limit for the taking of oaths of allegiance; and

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- (b) regulations under subsection (2) may provide for any fees imposed by the regulations to be payable at such times as may be prescribed.
- (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.
- (5) Subsection (4) applies to—
- (a) the <sup>M18</sup>Births and Deaths Registration Act 1953, the <sup>M19</sup>Registration Service Act 1953 and the <sup>M20</sup>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.

#### Textual Amendments

- F12** By S.I. 1986/948, art. 7(4)(b) it is provided that s. 41 shall have effect as if in subsection (1)(f) after the word “citizenship” there were inserted the words “or of the status of a British National (Overseas)”
- F13** By S.I. 1986/948, art. 7(4)(c), it is provided that s. 41 shall have effect as if in subsection (1)(i) after the words “British Dependent Territories citizens,” there were inserted the words “British Nationals (Overseas),”
- F14** By S.I. 1986/948, art. 7(4)(d)(i) it is provided that s. 41 shall have effect as if in subsection (2) at the end of para. (a) there were inserted the words “other than an application for the purpose of acquiring the status of a British National (Overseas)”
- F15** By S.I. 1986/948, art. 7(4)(d)(ii) it is provided that s. 41 shall have effect as if in subsection (2) at the end of para. (b) there were inserted the words “other than registration as a British National (Overseas)”

#### Modifications etc. (not altering text)

- C24** Ss. 41, 42, 44–48 extended by British Nationality (Falkland Islands) Act 1983 (c. 6, SIF 87), s. 4(2)(a)–(f)
- C25** Ss. 40–42, 44–48, 50 extended by British Nationality (Hong Kong) Act 1990 (c. 34, SIF 87), s. 2(3)
- C26** S. 41 amended by S.I. 1986/948, art. 7(4)(a)
- C27** S. 41 modified (19.3.1997) by 1997 c. 20, s. 2(3)
- C28** S. 41 amended (18.7.1996) by 1996 c. 41, s. 2(2)

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### Marginal Citations

**M18** 1953 c. 20.

**M19** 1953 c. 37.

**M20** 1965 c. 49.

VALID FROM 13/01/2010

### <sup>F16</sup>41A Registration: requirement to be of good character

- (1) An application for registration of an adult or young person as a British citizen under section 1(3), (3A) or (4), 3(1), (2) or (5), 4(2) or (5), 4A, 4C, 4D, 5, 10(1) or (2) or 13(1) or (3) must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.
- (2) An application for registration of an adult or young person as a British overseas territories citizen under section 15(3) or (4), 17(1) or (5), 22(1) or (2) or 24 must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.
- (3) An application for registration of an adult or young person as a British Overseas citizen under section 27(1) must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.
- (4) An application for registration of an adult or young person as a British subject under section 32 must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.
- (5) In this section, “adult or young person” means a person who has attained the age of 10 years at the time when the application is made.]

### Textual Amendments

**F16** S. 41A inserted (13.1.2010) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 47\(1\), 58](#); [S.I. 2009/2731](#), [art. 4\(f\)](#)

## 42 Registration and naturalisation: general provisions.

- (1) Subject to subsection (2)—
  - (a) a person shall not be registered under any provision of this Act as a citizen of any description or as a British subject; and
  - (b) a certificate of naturalisation shall not be granted to a person under any provision of this Act,unless—
  - (i) any fee payable by virtue of this Act in connection with the registration or, as the case may be, the grant of the certificate has been paid; and
  - (ii) the person concerned has within the prescribed time taken an oath of allegiance in the form indicated in Schedule 5.
- (2) So much of subsection (1) as requires the taking of an oath of allegiance shall not apply to a person who—

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- (a) is not of full age; or
  - (b) is already a British citizen, a British Dependent Territories citizen, [<sup>F17</sup>a British National (Overseas),] a British Overseas citizen, a British subject, or a citizen of any country of which Her Majesty is Queen.
- (3) Any provision of this Act which provides for a person to be entitled to registration as a citizen of any description or as a British subject shall have effect subject to the preceding provisions of this section.
- (4) A person registered under any provision of this Act as a British citizen, or as a British Dependent Territories citizen [<sup>F18</sup>, or as a British National (Overseas),] or as a British Overseas citizen, or as a British subject, shall be a citizen of that description or, as the case may be, [<sup>F18</sup>a British National (Overseas) or] a British subject as from the date on which he is so registered.
- (5) A person to whom a certificate of naturalisation as a British citizen or as a British Dependent Territories citizen is granted under any provision of this Act shall be a citizen of that description as from the date on which the certificate is granted.

#### Textual Amendments

- F17** By S.I. 1986/948, art. 7(5)(a) it is provided that s. 42 shall have effect as if in sub-section (2)(b) after the words “British Dependent Territories citizen,” there were inserted the words “a British National (Overseas),”
- F18** By S.I. 1986/948, art. 7(5)(b)(ii) (iii) it is provided that s. 42 shall have effect as if in subsection (4) after the words “British Dependent Territories citizen” there were inserted the words “, or as a British National (Overseas),” and after the words “as the case may be,” there were inserted the words “a British National (Overseas) or”

#### Modifications etc. (not altering text)

- C29** Ss. 40-42, 44-48, 50 extended by British Nationality (Hong Kong) Act 1991 (c.34, SIF 87), s.2(3)
- C30** Ss. 41, 42, 44-48 extended by British Nationality (Falkland Islands) Act 1983 (c.6, SIF 87), s. 4(2)(a)-(f)
- C31** S. 42(4) amended by S.I. 1986/948, art. 7(5)(b)(i)

VALID FROM 01/01/2004

#### [<sup>F19</sup>42A Registration and naturalisation: fee

- (1) A person shall not be registered under a provision of this Act as a citizen of any description or as a British subject unless any fee payable by virtue of this Act in connection with the registration has been paid.
- (2) A certificate of naturalisation shall not be granted to a person under a provision of this Act unless any fee payable by virtue of this Act in connection with the grant of the certificate has been paid.]

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### Textual Amendments

**F19** Ss. 42-42B substituted (1.1.2004) for s. 42 by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 3, 162, [Sch. 1 para. 1](#) (with s. 159); S.I. 2003/3156, [art. 2\(a\)](#) (with arts. 3, 4)

VALID FROM 01/01/2004

### [<sup>F20</sup>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
  - (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.]

### Textual Amendments

**F20** Ss. 42-42B substituted (1.1.2004) for s. 42 by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 3, 162, [Sch. 1 para. 1](#) (with s. 159); S.I. 2003/3156, [art. 2\(a\)](#) (with arts. 3, 4)

## 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 dependent territory which is for the time being a colony, by the Governor in cases concerning British Dependent Territories citizens or British Dependent Territories citizenship [<sup>F21</sup>and in cases concerning British Nationals (Overseas) or the status of a British National (Overseas)]
- (2) The said matters are—
  - (a) registration and naturalisation; and
  - (b) renunciation, resumption and deprivation of British citizenship or British Dependent Territories citizenship.

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[<sup>F22</sup>(c) renunciation and deprivation of the status of a British National (Overseas).]

- (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.

#### Textual Amendments

- F21** By S.I. 1986/948, art. 7(6)(b) it is provided that s. 43 shall have effect as if in subsection (1)(b) at the end there were inserted the words “and in cases concerning British Nationals (Overseas) or the status of a British National (Overseas)”
- F22** By S.I. 1986/948, art. 7(6)(c) it is provided that s. 43 shall have effect as if in sub-section (2) at the end there were inserted paragraph (c)

#### Modifications etc. (not altering text)

- C32** S. 43 amended by S.I. 1986/948, art. 7(6)(a)

#### 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) The Secretary of State, a Governor or a Lieutenant-Governor, as the case may be, shall not be required to assign any reason for the grant or refusal of any application under this Act the decision on which is at his discretion; and the decision of the Secretary of State or a Governor or Lieutenant-Governor on any such application shall not be subject to appeal to, or review in, any court.
- (3) Nothing in this section affects the jurisdiction of any court to entertain proceedings of any description concerning the rights of any person under any provision of this Act.

#### Modifications etc. (not altering text)

- C33** Ss. 40–42, 44–48, 50 extended by British Nationality (Hong Kong) Act 1990 (c. 34, SIF 87), s. 2(3)
- C34** Ss. 41, 42, 44–48 extended by British Nationality (Falkland Islands) Act 1983 (c. 6, SIF 87), s. 4(2)(a)–(f)
- C35** S. 44(1)(2) amended (18.7.1996) by 1996 c. 41, s. 2(2)

VALID FROM 31/08/2006

#### [<sup>F23</sup>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.]

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### Textual Amendments

**F23** S. 44A inserted (31.8.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [ss. 49, 62](#); [S.I. 2006/2226](#), [art. 3](#), [Sch. 1](#) (subject to transitional provisions in [art. 4](#))

## 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.

### Modifications etc. (not altering text)

- C36** [Ss. 41, 42, 44–48](#) extended by [British Nationality \(Falkland Islands\) Act 1983 \(c. 6, SIF 87\)](#), [s. 4\(2\)\(a\)–\(f\)](#)
- C37** [S. 45](#) amended by [S.I. 1986/948](#), [art. 7\(7\)\(a\)](#)  
[S. 45](#) amended (18.7.1996) by [1996 c. 41](#), [s. 2\(2\)](#)
- C38** [Ss. 40–42, 44–48, 50](#) extended by [British Nationality \(Hong Kong\) Act 1990 \(c. 34, SIF 87\)](#), [s. 2\(3\)](#)
- C39** [S. 45](#) modified (19.3.1997) by [1997 c. 20](#), [s. 2\(3\)](#)

## 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 [<sup>F24</sup>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 [<sup>F24</sup>level 4 on the standard scale].
- (3) In the case of an offence under subsection (1)—



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- (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".

#### Textual Amendments

**F24** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [art. 5](#)

#### Modifications etc. (not altering text)

**C40** [Ss. 41, 42, 44–48](#) extended by [British Nationality \(Falkland Islands\) Act 1983 \(c. 6, SIF 87\)](#), [s. 4\(2\)\(a\)–\(f\)](#)

**C41** [Ss. 40–42, 44–48, 50](#) extended by [British Nationality \(Hong Kong\) Act 1990 \(c. 34, SIF 87\)](#), [s. 2\(3\)](#)

**C42** [S. 46](#) modified (19.3.1997) by [1997 c. 20](#), [s. 2\(3\)](#)

**C43** [S. 46\(1\)](#) amended by [S.I. 1986/948](#), [art. 7\(7\)\(b\)](#)

## 47 Legitimated children.

- (1) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage, be treated for the purposes of this Act as if he had been born legitimate.
- (2) A person shall be deemed for the purposes of this section to have been legitimated by the subsequent marriage of his parents if by the law of the place in which his



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father was domiciled at the time of the marriage the marriage operated immediately or subsequently to legitimate him, and not otherwise.

**Modifications etc. (not altering text)**

- C44 Ss. 41, 42, 44–48 extended by [British Nationality \(Falkland Islands\) Act 1983 \(c. 6, SIF 87\)](#), s. 4(2)(a)–(f)
- C45 Ss. 40–42, 44–48, 50 extended by [British Nationality \(Hong Kong\) Act 1990 \(c. 34, SIF 87\)](#), s. 2(3)
- C46 Ss. 47, 48 amended by [S.I. 1986/948](#), art. 7(7)(c)
- C47 S. 47 modified (19.3.1997) by [1997 c. 20](#), s. 2(3)

**48 Posthumous children.**

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.

**Modifications etc. (not altering text)**

- C48 Ss. 41, 42, 44–48 extended by [British Nationality \(Falkland Islands\) Act 1983 \(c. 6, SIF 87\)](#), s.4(2)(a)–(f)
- C49 Ss. 47, 48 amended by [S.I. 1986/948](#), art. 7(7)(c)
- C50 Ss. 40–42, 44–48, 50 extended by [British Nationality \(Hong Kong\) Act 1990 \(c.34, SIF 87\)](#), s. 2(3)
- C51 S. 48 modified (19.3.1997) by [1997 c. 20](#), s. 2(3)

<sup>F25</sup>49 .....

**Textual Amendments**

- F25 S. 49 repealed by [British Nationality Act 1981 \(c. 61, SIF 87\)](#), s. 52(7)(8), Sch. 8 para. 8, [Sch. 9](#)

**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;
  - “association” means an unincorporated body of persons;
  - [<sup>F26</sup>“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.]

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“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 <sup>M21</sup>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;

“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;

“dependent territory” means a territory mentioned in Schedule 6;

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

“foreign country” means a country other than the United Kingdom, a dependent territory, 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 <sup>M22</sup>Naturalization Act 1870;

“Governor”, in relation to a dependent territory, 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 <sup>M23</sup>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 dependent territory, 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;

“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 <sup>M24</sup>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;

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“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 dependent territory 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 <sup>M25</sup>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
  - (b) as having been settled in a dependent territory 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 <sup>M26</sup>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 dependent territory 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 <sup>M27</sup>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

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- (iii) a person who by virtue of section 10(5) of the <sup>M28</sup>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 dependent territory 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 <sup>M29</sup>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 dependent territory shall be construed accordingly.
- (7) 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.
- The preceding provisions of this subsection shall apply in relation to each dependent territory with the substitution for the references to the United Kingdom and to a British citizen of references to that territory and to a British Dependent Territories citizen respectively.
- (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) the relationship of mother and child shall be taken to exist between a woman and any child (legitimate or illegitimate) born to her; but
  - (b) subject to section 47, the relationship of father and child shall be taken to exist only between a man and any legitimate child born to him;

and the expressions

“mother”,  
“father”,  
“parent”,  
“child” and

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“descended” shall be construed accordingly.

(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 dependent territory or from the dependent territories 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.

#### Textual Amendments

**F26** By [S.I. 1986/948, art. 7\(8\)](#) it is provided that [s. 50](#) shall have effect as if in para. (1) after the definition of “association” there were inserted the definitions of “British National (Overseas)” and “British Overseas citizen”

#### Modifications etc. (not altering text)

**C52** [S. 50](#) extended by [British Nationality \(Falkland Islands\) Act 1983 \(c.6, SIF 87\), s. 4\(2\)\(g\)](#)

**C53** [S. 50](#) applied by [S.I. 1986/948, art. 1\(4\)](#)

**C54** [S. 50](#) applied (21.7.1993) by [S.I. 1993/1795, art. 1\(4\)](#).

**C55** [S. 50](#) modified (19.3.1997) by [1997 c. 20, s. 2\(3\)](#)

**C56** [S. 50](#) amended (18.7.1996) by [1996 c. 41, s. 2\(2\)](#)

**C57** [S. 50\(5\)](#) modified (7.11.2002, partly retrospective) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 11](#)

#### Marginal Citations

**M21** 1978 c. 15.

**M22** 1870 c. 14.

**M23** 1971 c. 77.

**M24** 1978 c. 30.

**M25** 1971 c. 77.

**M26** 1964 c. 81.

**M27** 1914 c. 17.

**M28** 1970 c. 14.

**M29** 1967 c. 4.

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VALID FROM 13/01/2010

## **[<sup>F27</sup>50A Meaning of references to being in breach of immigration laws**

- (1) This section applies for the construction of a reference to being in the United Kingdom “in breach of the immigration laws” in—
  - (a) section 4(2) or (4);
  - (b) section 50(5); or
  - (c) Schedule 1.
- (2) It applies only for the purpose of determining on or after the relevant day—
  - (a) whether a person born on or after the relevant day is a British citizen under section 1(1),
  - (b) whether, on an application under section 1(3) or 4(2) made on or after the relevant day, a person is entitled to be registered as a British citizen, or
  - (c) whether, on an application under section 6(1) or (2) made on or after the relevant day, the applicant fulfils the requirements of Schedule 1 for naturalisation as a British citizen under section 6(1) or (2).
- (3) But that is subject to section 48(3)(d) and (4) of the Borders, Citizenship and Immigration Act 2009 (saving in relation to section 11 of the Nationality, Immigration and Asylum Act 2002).
- (4) A person is in the United Kingdom in breach of the immigration laws if (and only if) the person—
  - (a) is in the United Kingdom;
  - (b) does not have the right of abode in the United Kingdom within the meaning of section 2 of the Immigration Act 1971;
  - (c) does not have leave to enter or remain in the United Kingdom (whether or not the person previously had leave);
  - (d) does not have a qualifying CTA entitlement;
  - (e) is not entitled to reside in the United Kingdom by virtue of any provision made under section 2(2) of the European Communities Act 1972 (whether or not the person was previously entitled);
  - (f) is not entitled to enter and remain in the United Kingdom by virtue of section 8(1) of the Immigration Act 1971 (crew) (whether or not the person was previously entitled); and
  - (g) does not have the benefit of an exemption under section 8(2) to (4) of that Act (diplomats, soldiers and other special cases) (whether or not the person previously had the benefit of an exemption).
- (5) For the purposes of subsection (4)(d), a person has a qualifying CTA entitlement if the person—
  - (a) is a citizen of the Republic of Ireland,
  - (b) last arrived in the United Kingdom on a local journey (within the meaning of the Immigration Act 1971) from the Republic of Ireland, and
  - (c) on that arrival, was a citizen of the Republic of Ireland and was entitled to enter without leave by virtue of section 1(3) of the Immigration Act 1971 (entry from the common travel area).

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- (6) Section 11(1) of the Immigration Act 1971 (person deemed not to be in the United Kingdom before disembarkation, while in controlled area or while under immigration control) applies for the purposes of this section as it applies for the purposes of that Act.
- (7) This section is without prejudice to the generality of—
- (a) a reference to being in a place outside the United Kingdom in breach of immigration laws, and
  - (b) a reference in a provision other than one specified in subsection (1) to being in the United Kingdom in breach of immigration laws.
- (8) The relevant day for the purposes of subsection (2) is the day appointed for the commencement of section 48 of the Borders, Citizenship and Immigration Act 2009 (which inserted this section).]

#### Textual Amendments

**F27** S. 50A inserted (13.1.2010) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\), ss. 48\(1\), 58](#) ;  
[S.I. 2009/2731, art. 4\(g\)](#)

#### Modifications etc. (not altering text)

**C58** S. 50A excluded (13.1.2010) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\), ss. 48\(4\), 58](#) ;  
[S.I. 2009/2731, art. 4\(g\)](#)

### [<sup>F28</sup>50B Immigration restrictions to be disregarded in certain cases

- (1) A person exercising a freedom of movement right at any time falling within the remedial period is treated for the purposes of this Act as not subject at that time under the immigration laws to any restriction on the period for which they may remain in the United Kingdom.
- (2) In this section—
- “freedom of movement right” means—
- (a) a right to reside in Great Britain and Northern Ireland that arises under or by virtue of—
    - (i) section 2(1) or (2) of the European Communities Act 1972, or
    - (ii) any other enactment so far as passed or made, or operating, for a purpose mentioned in section 2(2)(a) or (b) of that Act, or
  - (b) a right to reside in any of the Islands that is conferred by reference to, or that otherwise corresponds to or is similar to, a right within paragraph (a);
- “the remedial period” means—
- (a) where the freedom of movement right is a right to reside in Great Britain and Northern Ireland, the period beginning with 1 January 1983 and ending with 1 October 2000;
  - (b) where the freedom of movement right is a right to reside in the Bailiwick of Guernsey, the period beginning with 1 August 1993 and ending with 30 September 2004;

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- (c) where the freedom of movement right is a right to reside in the Bailiwick of Jersey, the period beginning with 1 January 1983 and ending with 8 February 2004;
- (d) where the freedom of movement right is a right to reside in the Isle of Man, the period beginning with 1 October 1994 and ending with 1 October 2000.]

#### Textual Amendments

**F28** S. 50B inserted (retrospectively) by [British Nationality \(Regularisation of Past Practice\) Act 2023](#) (c. 27), s. 1

### 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 [<sup>F29</sup>the British Nationality Acts 1981 and 1983] is a British citizen, a British Dependent Territories citizen or a British Overseas citizen [<sup>F30</sup>or who under the Hong Kong (British Nationality) Order 1986 is a British National (Overseas)];
  - (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 who is neither a British citizen nor a British Dependent Territories citizen [<sup>F31</sup>nor a British National (Overseas)] nor a British Overseas citizen;



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- (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 <sup>M30</sup>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.

#### Textual Amendments

**F29** Words substituted by [British Nationality \(Falkland Islands\) Act 1983 \(c. 6, SIF 87\), s. 4\(3\)](#)

**F30** By [S.I. 1986/948, art. 7\(9\)\(a\)](#) it is provided that [s. 51](#) shall have effect as if in subsection (3) at the end of para. (a)(ii) there were inserted the words “or who under the Hong Kong (British Nationality) Order 1986 is a British National (Overseas)”

**F31** By [S.I. 1986/948, art. 7\(9\)\(b\)](#) it is provided that [s. 51](#) shall have effect as if in subsection (3) in para. (b) after the words “British Dependent Territories citizen” there were inserted the words “nor a British National (Overseas)”

#### Modifications etc. (not altering text)

**C59** [S. 51\(3\)](#) modified (19.3.1997) by [1997 c. 20, s. 2\(3\)](#)

**C60** [S. 51\(3\)](#) amended (18.7.1996) by [1996 c. 41, s. 2\(2\)](#)

#### Marginal Citations

**M30** [1965 c. 34.](#)

## 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;
- (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.

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- (3) Subsection (2) shall not apply in relation to—
- (a) the <sup>M31</sup>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.
- <sup>X2</sup>(6) The enactments specified in Schedule 7 shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act.
- (7) This Act shall have effect subject to the transitional provisions contained in Schedule 8.
- <sup>X2</sup>(8) The enactments mentioned in Schedule 9 are hereby repealed to the extent specified in the third column of that Schedule.
- (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 <sup>M32</sup>Interpretation Act 1978 (which relate to the effect of repeals).
- (11) In this section  
“modifications” includes additions, omissions and alterations.

#### Editorial Information

**X2** The text of s. 52(6)(8) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M31** 1971 c. 77.

**M32** 1978 c. 30.

## 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 dependent territories; and section 36 of the <sup>M33</sup>Immigration Act 1971

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(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) For the purposes of section 3(3) of the <sup>M34</sup>West Indies Act 1967 it is hereby declared that the provisions of this Act, except those mentioned in subsection (7), extend to all associated states.

(7) The provisions referred to in subsections (5) and (6) 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.

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**Subordinate Legislation Made**

**P1** Power of appointment under s. 53(2) fully exercised: 1.1.1983 appointed by [S.I. 1982/933](#)

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**Marginal Citations**

**M33** [1971 c. 77.](#)

**M34** [1967 c. 4.](#)

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