



# **CONFIRMATION OF BRITISH NATIONALITY STATUS**

**A GUIDE FOR APPLICANTS REQUESTING CONFIRMATION THAT  
THEY ALREADY HOLD BRITISH NATIONALITY STATUS**

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## Introduction

This guide is intended to assist those people who believe they have a claim to British nationality but are unable to apply for a British passport because they do not have the documents needed for a passport application.

For advice on the documents needed for passport applications in the UK, see the guidance booklet with passport application forms, the Identity and Passport Service website at [www.ips.gov.uk](http://www.ips.gov.uk) or telephone 0300 222 0000.

A decision will be made by the UK Border Agency as to whether, on the balance of probabilities, the person making the claim holds British nationality. The decision will be in the form of a written opinion contained in either letter or certificate form. If the opinion of the UK Border Agency is that British nationality is held, then a British passport may be issued if the status letter/certificate is included with a fully completed passport application and other requirements for the issue of a passport are met.

Whether you have British nationality is a matter that can be determined conclusively only by the courts. The law on British nationality is complex and it is not possible, in this short guide, to list all the circumstances that give rise to a claim to British nationality or to cover all of the exceptions to the general principles we describe. This guide focuses on British citizenship. Similar rules apply to the acquisition of the other forms of British nationality that can be acquired automatically without the need for an application. If your circumstances do not exactly match the guidance and examples given here, you may wish to consult an immigration lawyer or agent. If you use an immigration agent, you should ensure that he is registered with the Office of the Immigration Services Commissioner (OISC). The lawyer or agent cannot give you a status letter/certificate acceptable for passport applications.

This guide is not a definitive statement of nationality law and is intended to help those with a clear claim to British citizenship. Liability cannot be accepted for any action taken on the basis of this guidance. Other information about citizenship and immigration, including information about becoming a British citizen through naturalisation or registration, is available on the UK Border Agency website at [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk)

### **OISC and immigration advice**

Immigration or nationality advisers acting in the course of business (whether paid or unpaid) are regulated by the Office of the Immigration Services Commissioner (OISC), an independent body. The provision of such advice is prohibited unless a person works for an organisation registered with, or exempted by, the OISC or is authorised to practise (like solicitors and barristers) by a designated professional body.

Certain categories (eg public health bodies) are exempted from the regulatory scheme by Ministerial Order. It is a criminal offence to provide advice or services in contravention of the regulatory scheme.

Further information about the regulatory scheme can be obtained from:

Office of the Immigration Services Commissioner  
5th Floor  
Counting House  
Tooley Street  
LONDON SE1 2QN  
Tel: 020 7211 1500  
Fax: 020 7211 1553

A full list of OISC regulated advisers is available on its website at [www.oisc.gov.uk](http://www.oisc.gov.uk)

You should read very carefully the following section on how to determine whether you are a British citizen, and consider what supporting evidence you have and whether this is sufficient to support your claim and to allow a decision to be made in your favour. If your case is not accepted you will be told why, and the fee will be retained. Any further request for a nationality status letter or certificate must be covered by a fresh fee.

## How to determine whether you are British

There are currently six different forms of British nationality. These are:

1. British citizen
2. British Overseas citizen
3. British overseas territories citizen
4. British National (Overseas)
5. British subject
6. British protected person status

Other forms of British nationality have existed but they are not current eg citizenship of the UK & Colonies, or British Dependent Territories citizenship. Information leaflets on all forms of British nationality are available on the UK Border Agency website at [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk)

Only British citizenship allows the right to live and work in the UK\*. People holding one of the other forms of nationality may only live and work in the UK if their immigration status allows it.

**\* [Certain British subjects with right of abode through qualifying connections under the Immigration Act 1971 are also free to live and work in the UK. British overseas territories citizens who derive that status from a Gibraltar connection also enjoy certain rights of free movement and establishment under the EC Treaty]**

British nationality is defined in law. Whether a person has a claim to British nationality can be determined by applying the definitions and requirements of the British Nationality Act 1981 and related legislation to the facts of their date and place of birth and descent. This section provides brief guidance on how to work out whether you already hold British citizenship. Separate advice and guidance for those who are not currently British citizens but who wish to acquire British citizenship through naturalisation or registration is available at [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk).

British citizenship and British Overseas citizenship were introduced from 1 January 1983 to replace the earlier nationality status of citizenship of the UK and Colonies. British citizenship was automatically acquired from that date by citizens of the UK & Colonies who had a right of abode in the United Kingdom and British Overseas citizenship was acquired by those who did not hold such a right of abode. If you were issued with a British passport between 1 January 1973 and 1 January 1983 it may be stamped with "citizen of the UK & Colonies" and "the holder has the right of abode in the UK" or "the holder has patriality in the UK". These stamps would indicate that the holder became, or if deceased, would have become a British citizen on 1 January 1983. If the passport says that the holder was a citizen of the UK & Colonies but does not mention right of abode or patriality then the person is likely to have become a British Overseas citizen (unless they had previously lost citizenship of the UK & Colonies before 1 January 1983).

Most British overseas territories citizens were deemed to be British citizens from 21 May 2002 under the British Overseas Territories Act 2002.

## **Automatic claims to British citizenship by descent and otherwise than by descent**

The law makes a basic distinction between British citizens “by descent”, who generally speaking cannot pass on their citizenship to children born outside the United Kingdom and British citizens “otherwise than by descent”, who can.

It is not possible for people holding British citizenship by descent to “up-grade” their status to British citizenship otherwise than by descent.

People who are:

- o Naturalised
- o Registered as a British citizen
- o Born or adopted in the United Kingdom before 1 January 1983
- o Born in the United Kingdom on or after 1 January 1983 whose mother or (if legitimate) father was a British citizen or settled in the United Kingdom
- o Born in the United Kingdom on or after 1 July 2006 with a parent who is a British citizen or settled (ie not subject to immigration control) in the United Kingdom

are normally British citizens otherwise than by descent. Exceptions include those born in the United Kingdom to parents who were not subject to immigration control at the time of birth. These include:

- o Foreign diplomats based in the UK
- o Visiting members of armed forces
- o Occupying enemy aliens

Under current legislation, British citizenship will normally descend through one generation to children born abroad. Such children are British citizens by descent and are generally unable to transmit their citizenship to subsequent generations born abroad.

- o Before 1 January 1983 transmission of citizenship of the UK & Colonies was limited to legitimate children of British citizen otherwise than by descent fathers.
- o From 1 January 1983 British citizenship descended equally along the male and female line; the latter regardless of legitimacy.
- o From 1 July 2006 British citizenship descends equally along the male and female line regardless of legitimacy.

## **Crown service abroad**

Prior to 1 January 1983 British men engaged in UK Government service outside the United Kingdom could transmit their British nationality to their overseas-born children irrespective of whether they themselves held citizenship by descent or otherwise than by descent.

This arrangement continues under current law but

- o British women in UK Government service can now transmit their citizenship on equal terms with British men in such service;
- o Activities designated by the Home Secretary as being closely related to the UK Government service (such as NATO), and service under an institution of the EC, are treated for this purpose as being equivalent to UK Government service;

Recruitment to the UK Government or closely related (eg NATO) service must also have taken place in the United Kingdom. Recruitment to the EC Institution service must also have taken place in an EC Member State.

## **Birth in the Crown's dominions (former British Empire) up to 1949 and in the UK & colonies up to 1983**

Prior to 1949, birth anywhere within the Crown's dominions automatically conveyed British subject status (minor exceptions aside). The Crown's dominions prior to 1949 is a reference to the territories within the British Empire, save for those which were merely under British protection rather than British sovereignty.

The British Nationality Act 1948, in force from 1 January 1949, was enacted to create a new nationality status (citizenship of the UK & colonies) for people from the UK and the UK's remaining colonies, as part of a scheme allowing for the self-governing dominions (the parts of the British Empire that were effectively independent already, like Canada) to frame their own citizenship laws. The 1948 Act provided for people to be citizens of the UK & Colonies (CUKCs) by virtue of a connection with the UK or a remaining UK colony, and equivalent statutes passed in the Dominions provided for separate citizenship for people connected to those countries.

The changes made under the 1948 Act reflected the transformation of the British Empire into the modern British Commonwealth. The self-governing Dominions became independent members of the Commonwealth. Those who were British subjects before 1949 generally became CUKCs (if from a remaining UK colony) or citizens of Canada etc (if from Canada etc). British subject status became synonymous with Commonwealth citizenship. But from 1949 British subject status or Commonwealth citizenship was generally attained only by becoming a CUKC or citizen of a Commonwealth country. Therefore from 1949, British subject status (also known as Commonwealth citizenship) was a common denominator status shared by all CUKCs and citizens of the independent Commonwealth countries.

Thus, as an example, someone born in Canada in 1940 was a British subject by birth in the Crown's dominions. On 1 January 1949, when Canada was defined as an independent Commonwealth country for the purposes of British nationality law, that person did not become a CUKC but was a British subject (or Commonwealth citizen) Citizen of Canada.

From 1949 onwards, when those CUKCs connected to newly emerging independent states became citizens of those countries on independence, they automatically lost their citizenship of the UK & colonies unless they benefited from a specified exception. Exceptions would apply where there was a secondary claim to citizenship of the UK & Colonies, usually through the male line going back two generations.

An example that illustrates exception to loss would be someone born in Canada in 1940 to a father born in Jamaica who would on 1 January 1949 become a citizen of Canada. But he would also be a CUKC on that date by virtue of a sufficiently close connection with the Colony of Jamaica.

Once Jamaica gained independence on 6 August 1962 he would lose his citizenship of the UK & Colonies status and become a dual Canadian/Jamaican citizen, the latter by descent. If the paternal grandfather was born in a place which was still within the UK & Colonies on or after 6 August 1962, exceptionally the person concerned would not have ceased to be a CUKC on that date.

Those connected with newly emerged independent Commonwealth countries who did not automatically become citizens of those countries, nor of countries from which they descended, remained citizens of the UK & Colonies. Those from former British India who were therefore British subjects immediately prior to 1 January 1949 but who did not become citizens of India or Pakistan under the citizenship law of those countries remained British subjects without citizenship.

Tracing citizenship through successive generations requires knowledge of the citizenship legislation in force during the span of those generations. In other words, using the previous example, to trace the citizenship of someone born in Canada of Jamaican descent would require knowledge of the citizenship laws for the United Kingdom, Canada and Jamaica to judge what citizenship was held by the subject, his father, and grandfather.

## **Recommended reading**

Fransman's British Nationality Law by Laurie Fransman published by Tottel Publishing ([www.tottelpublishing.com](http://www.tottelpublishing.com)) provides a comprehensive history of British nationality law from 1915 together with advice on nationality status tracing and the relevant citizenship laws of countries from which British nationality may be derived.

## How to complete the application form

Feeling British or having British heritage is not a basis for claiming British nationality. Nor is long residence in the UK or paying taxes and having a National Insurance number. Nor is service in the British armed forces during any major conflict. Citizenship may only be claimed through a qualifying connection with the UK, which is recognised as such by relevant legislation.

Before completing the form you should ensure that you have a clear idea of why, as a matter of law, you believe that you are a British citizen, and provide sufficient evidence in support of your claim. If the evidence is in the form of your, and a parent's birth certificate you should consider applying for a British passport. Only if you do not have documentation acceptable to the passport authorities should you apply for confirmation of nationality status.

For advice on the documents needed for the passport applications in the UK, see the guidance booklet with passport application forms, the Identity and Passport Service website at [www.ips.gov.uk](http://www.ips.gov.uk), or telephone 0300 222 0000.

Turning to the application form NS, you should complete all relevant boxes as follows.

### Section 1:

Ensure that you complete all boxes correctly. Any that do not apply should be struck through or marked as "not applicable".

Although a decision will be made on the basis of the information you supply and the supporting documents, we may wish to contact you on individual points of your claim. You should provide contact points in the form of daytime telephone number or e-mail address where we can contact you easily.

### Section 2: Ancestry

You should complete this fully as it affects your claim. If, for example, you are claiming through the paternal line, you should concentrate on your father's or father's father's links to the United Kingdom and how this connects to you.

Where marriage is crucial to your claim you should describe it fully including the form it took and what evidence you have to back it up.

### Section 3: Declaration

If you are applying on behalf of someone other than yourself, you should say who you are and why you are making this application.

A recent passport size photograph should be stapled or clipped in the space provided. The photograph must show the whole of the front of your face (if you are the applicant - otherwise the face of the person on whose behalf the application is made). The face must not be concealed, wholly or partly, by shade, dark glasses, clothing or hair (beards, sideburns and moustaches accepted).

### Where to send your application

You should send your application by secure mail, supported by original documents and fee to

Home Office  
PO Box 306  
Dept 1  
LIVERPOOL  
L2 0QN

If you are outside the UK you should submit your application via the nearest British Mission (e.g. British Embassy, British Consulate General, British High Commission, British Deputy High Commission). The documents will be forwarded to the Home Office for their decision. Details available on [www.fco.gov.uk](http://www.fco.gov.uk)

## **DOCUMENTS YOU NEED TO SUPPLY**

You must supply documents which support the identity of the people (ancestors) you use to support your claim to British citizenship, including evidence of marriage and registration as citizens of the UK and colonies or British citizenship, including immigration status, where this is relevant.

The evidence must be original and date from around the time that the events to which it relates took place. For example, birth many years ago should be evidenced using documents that existed around that time. Documents such as certificates of birth registered within a short time after the birth took place will be accepted. So too will baptism or school certificates issued reasonably near the time of birth. We will not usually accept as supporting evidence a certificate of birth for an adult who has only recently been registered.

Likewise, we will only accept statutory declarations in support of a customary wedding taking place from a credible witness who attended the wedding. Credible witness would include the minister who officiated at the marriage or someone who can be proven to have been there at the time.

Original documents should be posted using secure mail. We cannot accept responsibility for valuable documents lost in post.

## **What Happens Next?**

Once we have received your application for confirmation of British nationality status, we will write advising you that it has been received and acknowledging receipt of your fee.

Your application will be logged onto a computer database which will allow us to track it and any future correspondence we may have with you.

The application will be considered by a trained nationality caseworker. While we try to deal with cases quickly, this cannot be guaranteed and we cannot issue a status letter/certificate unless we are satisfied that, on the balance of probabilities, you have a legitimate claim to British citizenship.

Information on average waiting times can be found on the website at [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk) or by telephoning **0845 010 5200**, lines are open from 9.00 am to 9.00 pm. Please note that Monday is a particularly busy day and if possible please call after 6 pm.

If we agree your claim to British citizenship, you will be issued with a status letter/certificate which will be recognised for the issue of a British passport. If we do not agree your claim we will write and tell you why. This will include, if appropriate, how to reapply with more convincing supporting documents. Reapplications must be supported by fresh fees.

There is no right of appeal or review of our decision.

### **What you can expect from us.**

We will deal with your application courteously and professionally and provide clear advice on the outcome.

We will deal with your application quickly – usually within 10 working days of receipt.

### **What we expect from you.**

We expect to be treated politely and with respect by you and any agent acting on your behalf. We will not respond to any application or request made in immoderate terms or language.

We expect you to tell us where you can be contacted while your application is under consideration.

### **Complaints**

If you are unhappy with the service provided by the Nationality Team you may wish to complain in writing to  
UK Border Agency  
North West Customer Services Unit  
6th Floor  
4M Offices  
Manchester Airport M90 3WW

