



BN9 – CHILDREN BORN OR ADOPTED ON OR AFTER 1 JANUARY 1983:

- IN THE UNITED KINGDOM**
- IN A BRITISH OVERSEAS
TERRITORY**

www.ukba.homeoffice.gov.uk

GENERAL

1. In this leaflet:
 - a. The “United Kingdom” means England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man
 - b. References to “qualifying territories” mean the British overseas territories (see Note 1) other than the Sovereign Base Areas of Akrotiri and Dhekelia
 - c. Unless otherwise indicated, any reference to “parent” means:

Children born before 1 July 2006

- the mother (if the child was born on or after 1 January 1983) – before 1983, women were not able to pass on citizenship to their children
- the father (but only if he was married to the mother)
NB. If the parents were not married when the child was born, but then get married, the marriage *might* legitimate the child’s birth. If it does, the child would become a British citizen (and would be regarded as having been one from birth) if the father was a British citizen (or settled) when the child was born. Children of a void marriage may also, in some circumstances, be treated as legitimate.

Children born on or after 1 July 2006

- the mother (i.e. the woman who gives birth to the child)
- the father if:
 - a. he is married to the mother at the time of the birth; **or**
 - b. he is treated as the father under section 28 of the Human Fertilisation and Embryology Act 1990; **or**
 - c. (if *neither* (a) *nor* (b) apply) he can satisfy certain requirements as regards proof of paternity – i.e. he is named as the father on a birth certificate issued within 1 year of the child’s birth or he can satisfy the Home Secretary that he is the father of the child (by means of DNA test results, court orders or other relevant evidence)

CHILDREN BORN IN THE UNITED KINGDOM

2. A child born in the United Kingdom on or after 1 January 1983 will be a British citizen if one of the parents was a British citizen or settled (see Note 2) in the United Kingdom*. In any other circumstances, a child who is born in the United Kingdom on or after 1 January 1983 will not be a British citizen at the time of the birth.

* A new-born infant who is found abandoned in the United Kingdom will be treated as though he or she (a) was born in the United Kingdom on or after 1 January 1983 **and** (b) had a parent who was a British citizen or settled in the United Kingdom – i.e. the child would be regarded as a British citizen unless, at *any* time, there is information to the contrary.

3. If neither parent is a British citizen or legally settled here, the child will not be a British citizen at birth. So if a married couple have only been allowed into this country temporarily (e.g. as visitors or students, or to work), and they are still limited as to how long they can stay, their child will not be a British citizen at birth. If they have entered the country illegally or they are in breach of the immigration laws, and they do not have permission to be here, their child will not be a British citizen at birth.

4. If the parents want to stay in the United Kingdom, they should apply to the Border and Immigration Agency for themselves and their child to be given leave to remain. Further

information about the Immigration Rules and about how to apply for leave to remain in the United Kingdom is available on our website or by contacting the Immigration and Nationality Enquiry Bureau (Tel: 0870 606 7766). An application for leave to remain should be made on the appropriate application form. Application forms are available on our website or by contacting the Application Forms Unit (Tel: 0870 241 0645).

CHILDREN BORN IN A BRITISH OVERSEAS TERRITORY

5. A child who was born in a British overseas territory (see Note 1) on or after 1 January 1983 will be a British overseas territories citizen if one of the parents was a British overseas territories citizen or settled in a British overseas territory*. A child who was born in the Falkland Islands would also be a British citizen if one of the parents was a British citizen or settled (see Note 2) in the Falkland Islands*.

* A new-born infant who is found abandoned in a British overseas territory will be treated as though he or she (a) was born in that territory on or after 1 January 1983 **and** (b) had a parent who was a British overseas territories citizen or settled in that territory – i.e. the child would be regarded as a British overseas territories citizen unless, at *any* time, there is information to the contrary.

6. A child who was a British overseas territories citizen by connection with a qualifying territory will have become a British citizen automatically on 21 May 2002.

7. A child who is born in a qualifying territory on or after 21 May 2002 will be a British citizen if either parent was a British citizen or settled (see Note 2) either in the United Kingdom or that territory**.

** A new-born infant who is found abandoned in a qualifying territory on or after 21 May 2002 will be treated as though he or she (a) was born in that territory on or after 21 May 2002 **and** (b) had a parent who was a British citizen or settled in that territory – i.e. the child would be regarded as a British citizen unless, at *any* time, there is information to the contrary.

You can get further information by contacting the Nationality Quality and Enquiry Team or British Post abroad (see paragraphs 17-18).

ADOPTED CHILDREN

8. A child who is not already a British citizen but is adopted by a British citizen on or after 1 January 1983 will automatically become a British citizen from the date a court makes an adoption order as long as the child is still under the age of 18 and the adoption:

- is made by a court in the United Kingdom; **or**
- is made by a court in the Falkland Islands between 1 January 1983 and 20 May 2002 (inclusive); **or**
- is made by a court in a qualifying territory on or after 21 May 2002; **or**
- is:
 - a “Convention” adoption (see Note 3), **and**
 - is made by a court outside the United Kingdom on or after 1 June 2003, **and**
 - the adoptive parent is habitually resident in the United Kingdom at the time of the adoption (NB. In the case of a joint adoption, **both** of the adoptive parents must be habitually resident in the United Kingdom)

9. Children adopted in a British overseas territory before 21 May 2002 would not become British citizens on the date of adoption. However, they would have become British overseas territories citizens if they were under the age of 18 and one of the adoptive parents was a British

overseas territories citizen. If they had that citizenship by connection with a qualifying territory (whether as a result of the adoption or otherwise), they would have become British citizens automatically on 21 May 2002.

10. A child who is adopted in any other circumstances will not automatically become a British citizen. However, the Home Secretary may agree to register the child as a British citizen (see paragraph 14 below).

CHILDREN BORN STATELESS

11. The British Nationality Act 1981 contains special provisions for children born stateless. Further information about these provisions is in leaflet BN5, which is available on our website or by contacting the Nationality Quality and Enquiry Team or British Post abroad (see paragraphs 17-18).

RIGHTS TO REGISTRATION

British citizen

12. A child born on or after 1 January 1983 who does not become a British citizen at birth *may* have a right to be registered as a British citizen if:
- a. the child was born in the United Kingdom and one of the parents becomes a British citizen or settled in the United Kingdom before the child is 18, **or**
 - b. the child was born in the United Kingdom and has lived in the United Kingdom until age 10, **or**
 - c. the child was born in a British overseas territory and one of the parents is a British citizen *by descent*, **or**
 - d. the child was born stateless (see paragraph 11)

British overseas territories citizen

13. A child born on or after 1 January 1983 who does not become a British overseas territories citizen at birth *may* have a right to be registered as a British overseas territories citizen if:
- a. the child was born in a British overseas territory and one of the parents becomes a British overseas territories citizen or settled in a British overseas territory before the child is 18, **or**
 - b. the child was born in a British overseas territory and has lived in that territory until age 10, **or**
 - c. the child was born in the United Kingdom and one of the parents is a British overseas territories citizen *by descent*, **or**
 - d. the child was born stateless (see paragraph 11)

14. A child aged under 18 who does not have the **right** to be registered as a British citizen or British overseas territories citizen may still be registered if the Home Secretary agrees (or, in the case of British overseas territories citizenship, the Governor of the relevant territory). It is not possible to set out all of the circumstances in which the Home Secretary/Governor might be prepared to allow registration. However, he will normally take into account:

- the child's connections with the United Kingdom (or the British overseas territory, if appropriate)
- where the child's future is likely to lie
- the parents' views and nationality
- the child's and the parents' immigration position
- (if the child is aged 10 or over) the child's character

- (in the case of an older child, particularly one who is approaching the age of 18) the length of time the child has lived in the United Kingdom (or the British overseas territory, if appropriate)

15. An application for registration as a British citizen described in paragraph 12(a), 12 (c) or 14 should be made on a Form MN1; an application described in paragraph 12(b) should be made on Form T; an application described in paragraph 12(d) or 13(d) should be made on Form S3. An application for registration as a British overseas territories citizen described in paragraph 13(a), 13(c) or 14 may be made on Form MN2 – however, separate application forms may be designed for use in each British overseas territory. Further information about how a child under 18 can be registered, and relevant application forms, are available on our website or from the Nationality Quality and Enquiry Team or British Post abroad (see paragraphs 17-19).

16. A child who is aged 18 or over will not normally be able to register as a British citizen or a British overseas territories citizen, but *may* be able to apply for naturalisation. The requirements for naturalisation as a British citizen are explained in leaflet BN7, which you can get on our website or from the Nationality Quality and Enquiry Team or British Post abroad (see paragraph 17-19).

You can obtain further information about naturalisation as a British overseas territories citizen from the Governor of the relevant territory.

GENERAL ENQUIRIES, LEAFLETS AND APPLICATION FORMS

17. If you are in England, Scotland, Wales or Northern Ireland and you have any questions about becoming a British citizen or a British overseas territories citizen, please contact:

Home Office Department 2
Nationality Quality and Enquiry Team
Border and Immigration Agency
PO Box 306
Liverpool
L2 0QN

Telephone: 0845 010 5200

If you want to apply for your child to be registered as a British citizen, you can get an application form and guide on our website or by telephoning 0117 344 1462.

18. If you have any questions about citizenship or want to ask for application forms (and you are not in England, Scotland, Wales or Northern Ireland), please contact:

- the Lieutenant-Governor, if you are in the Channel Islands or the Isle of Man
- the British Embassy or Consulate, if you are in a foreign country or Ireland
- the British High Commission, if you are in a Commonwealth country
- the Governor, if you are in a British overseas territory

19. If you want to apply for your child to be registered as a British overseas territories citizen, please contact the Governor of the British overseas territory with which the child has a connection (by birth or descent). If you have any questions about claims to the citizenship of any other country, please contact the authorities of the country concerned.

NOTES

1. The British overseas territories are (currently):

Anguilla	Montserrat
Bermuda	Pitcairn, Henderson, Ducie and Oeno Islands
British Antarctic Territory	St Helena and Dependencies
British Indian Ocean Territory	South Georgia and the South Sandwich Islands
Cayman Islands	Sovereign Base Areas of Akrotiri and Dhekelia (in Cyprus)*
Falkland Islands	Turks and Caicos Islands
Gibraltar	Virgin Islands

* The Sovereign Base Areas of Akrotiri and Dhekelia are not a “qualifying territory” for the purposes of nationality law (see paragraph 1(b))

2. This means ordinarily resident in the United Kingdom without being restricted, under the immigration laws, to how long you can stay here. No one can be regarded as ordinarily resident if they are in breach of the immigration laws. Certain people cannot be regarded as being settled here even though they are exempt from immigration control (e.g. certain members of diplomatic or consular missions, visiting forces, or international organisations).

Before 2 October 2000, European Economic Area (EEA) nationals exercising Treaty rights under European Community law were regarded as having been settled here.

Between 2 October 2000 and 30 April 2006, EEA nationals were **only** regarded as settled if they were granted indefinite leave to remain in the United Kingdom or had an **unconditional** right of residence under European Community law (e.g. retired people or people unable to work because of incapacity).

Since 30 April 2006, EEA nationals (or their family members) who have been exercising free movement rights in the United Kingdom for a continuous period of 5 years will, at the end of that 5 year period, become automatically entitled to permanent residence in the UK and do not need to be granted indefinite leave to remain in the United Kingdom. (NB. If you completed the “5 year” period before 30 April 2006, you only acquired permanent residence on 30 April 2006.)

The family members of EEA nationals exercising Treaty rights may be settled in their own right. If not, their claim to be regarded as settled depends upon whether the EEA national exercising Treaty rights could be regarded as settled.

It should be noted that:

- The person who is exercising “free movement rights” must have been an EEA national for the whole of the “5 year” period. For example, a citizen of a country which joined the European Union on 1 May 2004 will not acquire permanent residence until 1 May 2009 at the earliest
 - Since 1 June 2002, Swiss nationals and their family members have enjoyed similar residence rights to EEA nationals. They are not normally regarded as having been free of immigration restrictions before that date unless they had indefinite leave to enter or remain in the United Kingdom.
3. A “Convention” adoption is an adoption which:
- is effected under the law of any country, outside the Great Britain, Northern Ireland, the Channel Islands and the Isle of Man, in which the Hague Convention on Intercountry Adoption 1993 is in force; **and**
 - is certified in accordance with the Convention

The law covering British citizenship is in the British Nationality Act 1981 and the Regulations made under it, and in the British Nationality (Falkland Islands) Act 1983, the British Overseas Territories Act 2002 and the Nationality, Immigration and Asylum Act 2002. The information given here is only a brief guide to the law and to the Home Secretary's policy. It is not a complete statement of either the law or policy.