

# CHAPTER 1 – SECTION 1 RIGHT OF ABODE

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## 1. INTRODUCTION

Section 1(1) of the Immigration Act 1971 gives complete exemption from control to persons with the right of abode *subject to proof of that right*.

Section 2 of the 1971 Act as amended on 1 January 1983 by section 39(2) of the British Nationality Act 1981 defines the categories of persons who have the right of abode. All British citizens and *certain* other Commonwealth citizens (including those who are "dual nationals" - i.e. they hold a foreign nationality *together with* British or other Commonwealth citizenship) have that right (see *ANNEX A* and *ANNEX B* below).

The right of abode is a legal status that one either has or does not have according to the provisions of the 1971 Act, subject only to possible deprivation of the right under section 2A of that Act.

Any person not having the right of abode *is subject to immigration control* and, unless otherwise exempted by the legislation, requires leave to enter on arrival in the United Kingdom. If such a person is allowed to enter the United Kingdom without such a leave because the immigration officer erroneously treats him as a person who is exempt from control, then that person is an illegal entrant.

## **2. RESTRICTIONS ON EXERCISE OF THE RIGHT OF ABODE**

See Annex A, paragraph 6.

## **3. ON ENTRY**

Section 3(9) of the 1971 Act, as amended by the Immigration, Asylum and Nationality Act 2006, requires a person seeking to enter the United Kingdom and claiming the right of abode to prove that claim by producing either:

a United Kingdom passport or an ID Card issued under the **Identity Cards Act 2006** describing the person as a British citizen; or

a United Kingdom passport or an ID Card issued under the **Identity Cards Act 2006** describing the person as a British subject with the right of abode in the United Kingdom; or

a certificate of entitlement (see below and *ANNEX A*) certifying that he has the right of abode

### **3.1. Further guidance**

*ANNEX A* provides general guidance concerning the right of abode, including how, in some circumstances, a person may be deprived of his or her right of abode.

*ANNEX B* provides guidance about establishing nationality status where it is relevant to a person's claim to the right of abode and advice concerning the referral of such cases to Nationality Group.

*ANNEX C provides lists of:*

1. *Former United Kingdom dependencies; and*
2. *Existing British overseas territories.*

### **3.2. Procedure**

When a passenger presents a valid document as noted at paragraph 3 (above) he should, subject to paragraph 2, be accepted ***immediately*** as being exempt from control ***unless*** the immigration officer has reason to believe or suspect that the passport has been forged or falsified or was improperly obtained. The fact that a passport is out of date does not in itself render it invalid as evidence of nationality and identity, but this fact may justify the immigration officer in continuing his examination until he is satisfied on these points. Note that it is for the Immigration Officer to prove fraud, not for the passenger to disprove it.

### **3.3. Refusal of entry**

A passenger seeking to enter the United Kingdom and claiming to have the right of abode, but who is unable to produce any of the documentary evidence noted in ***paragraph 3*** (above) or is subject to the restrictions on exercise of the right of abode mentioned in paragraph 2, should be treated as ***subject to control***. Such a person should be examined in order to establish whether or not he qualifies for leave to enter. If, for example, he is claiming entry for settlement and the Rules require the production of an entry clearance, then refusal would follow if he is not in possession of such an entry clearance. ***It should be remembered that the absence of evidence to establish a claim to the right of abode is not, in itself, a ground for refusal of entry.***

Guidance on the refusal in the case of a person whose passport has been forged or falsified (or who is not entitled to his certificate of entitlement) is provided in ***Chapter 9, Section 2, "Refusal of leave to enter or Entry clearance on general grounds", under the heading "Forged or falsified passports or travel documents"***.

*ANNEX D (below) provides examples of refusal formulae.*

### **3.4. Right of appeal**

Section 82 of the Nationality, Immigration and Asylum Act 2002 confers rights of appeal against the refusal of leave to enter the United Kingdom and refusal to issue a certificate of entitlement (see, as regards the latter, paragraph 4.4-4.8 below). However, there is no longer any general right of appeal against a decision that a person ***requires*** leave to enter, whether or not that person is in possession of the documents mentioned in paragraph 3.

## **4. AFTER ENTRY**

***All cases where the applicant claims to have the right of abode, or where the caseworker suspects that the applicant has that right, should be referred to Nationality Group Right of Abode Section to consider.***

#### 4.1. Claiming the right of abode

An applicant will have the right of abode if he is

- (a) a British citizen or
- (b) a Commonwealth citizen having certain pre-1983 connections with the United Kingdom through ancestry or marriage who has not ceased, at any time since 1 January 1983, to be a Commonwealth citizen.

Under Paragraph 14 of HC 395 a Commonwealth citizen who has been given limited leave to enter the United Kingdom may later claim to have the right of abode. Such a person would have to prove his claim before he could be treated as free of any time limit on his stay (see below).

#### 4.2. Further guidance

*ANNEX A provides general guidance concerning the right of abode, including how a person may, in some circumstances, be deprived of his or her right of abode.*

*ANNEX B provides guidance about establishing nationality status where it is relevant to a person's claim to the right of abode and concerning the referral of such cases to Nationality Group.*

*ANNEX C provides lists of:*

1. Former United Kingdom dependencies; and
2. Existing British overseas territories.

#### 4.3. Procedure when claim to right of abode upheld

Where a person who was given conditional leave to enter the United Kingdom is later able to prove that he has the right of abode, he may (on application and payment of the prescribed fee) be issued with a certificate of entitlement. The issue of such certificates is a matter for Nationality Group Right of Abode Section. The decision to issue a certificate is recorded on (N)CID.

#### 4.4. Certificates of entitlement to the right of abode

Certificates of entitlement are issued by the Border and Immigration Agency (Nationality Group, Right of Abode Section) and by Foreign and Commonwealth posts abroad. They are *only* issued to persons with the right of abode who are unable to prove their right by production of a passport or ID Card as mentioned in paragraph 3 above.

An application to the Border and Immigration Agency for a certificate of entitlement should normally be made on a Form ROA.

A certificate of entitlement takes the form of a vignette which is placed in the passport and embossed. *A certificate of entitlement is valid within the validity of the passport to which it is affixed.*

A certificate of entitlement issued to a person who has the right of abode should bear a manuscript endorsement showing the relevant section of the 1971 Immigration Act as amended by the British Nationality Act 1981 Act (i.e. Section 2(1)(a)[1981] where the person is a British citizen, or section 2(1)(b)[1981] where the person is a Commonwealth citizen whose right of abode derives solely from his or her pre-1983 ancestral or marital connections with the United Kingdom).

#### **4.5 Fees**

Fees associated with applications for certificates of entitlement are prescribed by order under the Consular Fees Act 1980. Currently, under the Consular Fees Order 2007, a fee of £200 is payable for “receiving, outside the United Kingdom, an application for a certificate of entitlement to the right of abode” and a fee of £135 is payable for “receiving in the United Kingdom and application made in the United Kingdom for a certificate of entitlement to the right of abode”.

#### **4.6. Refusal**

The "*Adverse decisions - General Guidance*" at *Chapter 9, Section 1* provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

When a person given conditional leave to enter the United Kingdom is unable to prove a claim to the right of abode, the subsequent refusal notice should inform him as to the reason why he cannot be issued with a certificate of entitlement. Such a person's original limited leave to enter or remain, if still extant, will be unaffected by the refusal.

*ANNEX D (below) provides examples of refusal formulae.*

#### **4.7. Revocation of a certificate of entitlement**

A certificate of entitlement may be revoked by an official within the Border and Immigration Agency (normally Nationality Group, Right of Abode Section) or the IPS, or by an IO, ECO or Consular Officer, if it comes to light that the holder

- does not have the right of abode; or
- is the holder of a valid United Kingdom passport or ID Card describing him/her either as a British citizen or as a British subject with the right of abode; or
- is a person whose right of abode is restricted under s.2 of the Immigration Act 1988 (see Annex A); or
- is deprived of his/her right of abode by an order under section 2A of the Immigration Act 1971 (see Annex A).

The procedure is then as set out in *Chapter 14 "Persons exempt from control"* (*Annex C "Persons who cease to be exempt"*) of these instructions.

#### **4.8. Right of appeal**

A right of appeal exists against refusal to issue a certificate of entitlement, and notices of refusal should be made on form ICD.2533. This is sent with form ICD.2534.

The refusal is recorded on (N)CID.

There is no right of appeal against a decision to revoke a certificate of entitlement.

## **ANNEX A: GUIDANCE - GENERAL**

### **1. LEGISLATION**

Section 1(1) of the Immigration Act 1971 confers complete exemption from control on persons with the right of abode, subject to proof of that right.

Section 2 of the 1971 Act, as amended by section 39(2) of the British Nationality Act 1981, defines the categories of people who currently have the right of abode (see paragraph 2.2 below).

Section 2A of the Immigration Act 1971 makes provision for deprivation of the right of abode where held otherwise than by virtue of British citizenship (see paragraph 7 below).

Section 3(8) of the 1971 Act establishes that the burden of proving possession of the right of abode rests with the person claiming to have the right, and section 3(9) specifies how that burden may be discharged (see paragraph 3 below).

Section 2 of the Immigration Act 1988 imposes restrictions on the exercise of the right of abode in some cases (see paragraph 6 below).

Regulations under section 10 of the Nationality, Immigration and Asylum Act 2002, currently The Immigration (Certificate of Entitlement to Right of Abode in the United Kingdom) Regulations 2006, set out the procedure and grounds for the issue and revocation of certificates of entitlement.

Section 82 of the Nationality, Immigration and Asylum Act 1982 confers right of appeal against (a) a refusal to issue a certificate of entitlement and (b) a decision to make an order under section 2A of the Immigration Act 1971 (deprivation of right of abode).

### **2. PERSONS ENTITLED TO THE RIGHT OF ABODE**

#### **2.1 Who qualified before 1 January 1983?**

a) As originally enacted, the 1971 Act conferred right of abode on the following groups:

- CUKCs who had that citizenship by birth, adoption, naturalisation or registration in the United Kingdom (**section 2(1)(a)**)

- CUKCs born to or adopted by a parent who, at the time of the person's birth or adoption had right of abode under section 2(1)(a) of the 1971 Act (**section 2(1)(b)(i)**)
- CUKCs born to or adopted by a parent who, at the time of the person's birth had right of abode under section 2(1)(b)(i) of the 1971 Act (**section 2(1)(b)(ii)**)
- CUKCs who were ordinarily resident in the UK for any continuous period of 5 years before 31 December 1982 (time spent subject to immigration conditions can be included but the conditions must have been removed before completion of the 5 years) (**section 2(1)(c)**)
- Commonwealth citizens with a parent who, at the time of the person's birth or adoption, was a CUKC by birth in the United Kingdom (**section 2(1)(d)**)
- Female Commonwealth citizens and CUKCs who were, or had been, married to a man with right of abode at any time before 31 December 1982 (**section 2(2)**) (see also paragraph 3 below)

#### b) Definitions

- "CUKC", in relation to a time before 1 January 1949, means a British subject (so, if the claimant was then a British subject, residence in the UK before 1.1.49 will count for the purposes of section 2(1)(c))
- "Registration" does not include registration under section 6(2) of the British Nationality Act 1948 by virtue of a marriage which took place on or after 28 October 1971 (though a woman who was so registered may have had the right of abode under section 2(2))
- "Registration in the United Kingdom" includes registration in an independent Commonwealth country (including South Africa before 1 January 1966 and Pakistan before 1 September 1973) by the British High Commissioner, except in the case of children registered under section 7 of the British Nationality Act 1948 on or after 28 October 1971 (though such children may have had the right of abode under section 2(1)(b)(i) or (ii))
- "United Kingdom" means England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man. It also includes what is now the Republic of Ireland at a time when it formed part of the United Kingdom (i.e. before 31 March 1922)
- "Parent" includes the mother, but not the father, of an illegitimate child. It also includes the adoptive parents of a legally adopted child (see below)
- "Adopted" means legally adopted, i.e. adopted by order of a United Kingdom court or in any country listed on the relevant date in the Schedule to the Adoption (Designation of Overseas Adoptions) Order 1973
- "Commonwealth citizen" means a CUKC or a citizen of a country which, at the relevant date, was listed in section 1(3) of the British Nationality Act 1948.

## 2.2. Who qualified on or after 1 January 1983?

a) The Immigration Act 1971, as amended by section 39(2) of the British Nationality Act 1981, now provides that right of abode is held by the following groups:

- All British citizens (**section 2(1)(a)**)
- All other Commonwealth citizens who had right of abode under the original section 2(1)(d) or section 2(2) of the 1971 Act on 31 December 1982, and have not ceased to be Commonwealth citizens at any time since then (**section 2(1)(b)**)

b) Definitions

- "British citizen" means a person who acquired that citizenship under the British Nationality Act 1981, the British Nationality (Falkland Islands) Act 1983, the British Nationality (Hong Kong) Act 1990, the Hong Kong (War Wives and Widows) Act 1996, the British Nationality (Hong Kong) Act 1997 or the British Overseas Territories Act 2002. Advice about whether such acquisition has occurred in any particular case may be obtained from Nationality Quality and Enquiry Team, Liverpool.
- "Commonwealth citizen" means a person who is a British citizen, a British overseas territories citizen, a British National (Overseas), a British subject, a British Overseas citizen or a citizen of any country which, on the relevant date(s), is mentioned in Schedule 3 to the British Nationality Act 1981.

One result of the wording of the new right of abode provisions is that the re-admission of Pakistan and South Africa to the Commonwealth in 1989 and 1994 respectively did not have the effect of reviving any claims by their nationals to right of abode in the UK. It also means that the only way to acquire right of abode since 1 January 1983 has been by becoming a British citizen.

### **2.3 What is/was the effect of renunciation of British citizenship or CUKC status in right of abode terms?**

a) CUKCs who renounced that status in order to retain or acquire citizenship of another Commonwealth country may have had right of abode on 31 December 1982 under section 2(1)(d) or section 2(2) of the 1971 Act as then in force. Provided they have since remained a Commonwealth citizen, that right will have been preserved by the new **section 2(1)(b)** (see 2.2.1 above).

b) British citizens who renounce that status immediately forfeit their right of abode unless, as a citizen of another Commonwealth country, they have a residual claim under **section 2(1)(b)** of the 1971 Act, as amended.

## **3. EVIDENCE OF RIGHT OF ABODE**

Under section 3(9) of the 1971 Act, as amended by the Immigration, Asylum and Nationality Act 2006, a person claiming right of abode in the United Kingdom should prove it by presenting either:

- a United Kingdom passport or an ID Card issued under the Identity Cards Act 2006 describing the person as a British citizen; or

- a United Kingdom passport or an ID Card issued under the Identity Cards Act 2006 describing the person as a British subject with the right of abode in the United Kingdom; or
- a certificate of entitlement

This superseded earlier legislation, which provided for the production of alternative documentation in some cases.

## **4. UNCERTAIN CASES**

Any cases in which there are doubts whether a person had the right of abode in the United Kingdom on a particular date should be referred to Nationality Group Right of Abode Section.

## **5. CERTIFICATES OF ENTITLEMENT ISSUED IN ERROR**

The right of abode is a statutory right which a person either has or does not have, depending on whether the statutory conditions have been satisfied and subject to possible exercise of the power to deprive in s.2A of the 1971 Act (see paragraph 7 below). If a person does not satisfy those conditions, no action by or on behalf of the Secretary of State can operate so as to confer that right (Christodoulido -v- SSHD [1985] Imm AR 179).

The Immigration Appeal Tribunal held in SSHD -v-Gold [1985] Imm AR 66 that there is no right of appeal against the revocation of a certificate of entitlement found to have been issued in error. Provision for such revocation is now made by regulation 9 of The Immigration (Certificate of Entitlement to Right of Abode in the United Kingdom) Regulations 2006.

It may be possible in such a case to treat the misconceived certificate of entitlement application as an application for citizenship. Further advice about this may be sought from the Nationality Quality and Enquiry Team, Liverpool.

## **6. RESTRICTION ON EXERCISE OF RIGHT OF ABODE IN SOME CASES**

Section 2 of the 1988 Act provides that a woman who acquired the right of abode through marriage before 1983 (i.e. by virtue of section 2(2) of the Immigration Act 1971, as then in force) may not enter the UK in exercise of that right, or be granted a certificate of entitlement, if either:

- another living wife or widow of the same man is or has at any time since her marriage been in the UK otherwise than as a visitor, an illegal entrant or on temporary admission, or
- another living wife or widow of the same man has been granted a certificate of entitlement or entry clearance on account of her marriage

The restrictions do not prevent a wife who entered the UK in that capacity before 1 August 1988 from returning to this country, or from being issued with a certificate of entitlement or entry clearance enabling her to do so, irrespective of the presence here of other wives. Nor do they apply to a wife who has been in the UK at any time since her marriage if she was then the only wife to have entered, or been cleared for entry to, the UK.

So long as a woman is prevented under section 2 from entering the UK or obtaining a certificate of entitlement, she is subject to the provisions of the 1971 Act in the same way as a person who does not have the right of abode in the United Kingdom (**section 2(3)**).

## **7. DEPRIVATION OF RIGHT OF ABODE**

Under **s.2A** of the **Immigration Act 1971**, as inserted by **s.57** of the **Immigration, Asylum and Nationality Act 2006**, a person who has right of abode on the basis of Commonwealth (but not British) citizenship – i.e. under **s.2(1)(b)** of the **1971 Act** as amended – may be deprived of that right “if the Secretary of State thinks it would be conducive to the public good for the person to be excluded or removed from the United Kingdom”.

Ministers suggested during the passage of the 2006 Act that such action may be appropriate where the person –

- has encouraged or assisted others to commit acts of terrorism;
- has committed war crimes, public order offences or other serious crime; or
- has carried out acts seriously prejudicial to vital national interests, including espionage and acts of terrorism directed at the United Kingdom or an allied power

A person against whom a deprivation order is made will have a right of appeal to the Asylum and Immigration Appeal Tribunal or, where sensitive information might otherwise be disclosed in the course of the appeal, to the Special Immigration Appeals Commission. Subject to the outcome of any such appeal, an order made under **s.2A** of the **1971 Act** remains in force until revoked by the Secretary of State.

Cases in which there may be a possibility of deprivation of right of abode should be referred to Nationality Special Cases Team, Liverpool.

## **ANNEX B: ESTABLISHING NATIONALITY STATUS AND REFERRAL TO NATIONALITY QUALITY AND ENQUIRY TEAM (NQET), LIVERPOOL**

### **1. INTRODUCTION**

In some cases an applicant's status UNDER British nationality law may need to be established (if necessary by referral to NQET) where, for example, it is relevant to his claim to exemption from control through the right of abode. This annex covers some of the situations which may arise and provides guidance concerning the referral to NQET of any such case. Information is also provided about the various "nationality" explanatory leaflets produced by Border and Immigration Agency.

## 2. DUAL NATIONALS

A foreign national cannot have the right of abode *unless* he is a dual national and qualifies either as a British or other Commonwealth citizen. A person whose father or mother was a British citizen at the time of the applicant's birth may well be a British citizen by descent, even if he is travelling on a foreign passport. Similarly, a person born in the United Kingdom but now holding a foreign (or Commonwealth) passport may be a British citizen.

A person who was granted conditional leave to enter as a foreign national may later seek to establish a claim to British or other Commonwealth citizenship which would qualify him for the right of abode. If successful, such a person may be issued by Nationality Right of Abode Section with a certificate of entitlement.

Caseworkers should be aware that some applicants may experience difficulties with their governments if they have certificates of entitlement in their passports. If such a situation comes to notice the applicant should be advised that this may occur but that no alternative endorsement may be offered.

## 3. FORMER BRITISH COLONIES

When former British colonies gained independence, citizens of the new countries normally lost their citizenship of the United Kingdom and Colonies on independence unless they had a specific exception to loss. Such persons would now have *no claim* to British citizenship, British overseas territories citizenship or British Overseas citizenship under the British Nationality Act 1981.

Occasionally, caseworkers may encounter a person claiming the right of abode who submits his old pre-independence British passport as "proof" of citizenship. When dealing with such a case, it should be borne in mind that a person could have had the right of abode under section 2(1)(a), (b) or (c) Immigration Act 1971 immediately prior to 1 January 1983 *only* if he was *then* a citizen of the United Kingdom and Colonies and it may therefore be necessary, in some cases, to check with NQET to ascertain the person's current national status.

It should also be noted that a married woman who lost her citizenship of the United Kingdom and Colonies on independence may *still* have had a claim to the right of abode under section 2(2) Immigration Act 1971 if, as a Commonwealth citizen, she has at any time been married to a person who, at that time, had the right of abode.

This applies to all the former colonies which became independent before 1 January 1983 *except* Antigua and Belize which gained independence on 1 November 1981 and 21 September 1981 respectively. When Antigua and Belize became independent, in addition to the normal categories of person who retained citizenship of the United Kingdom and Colonies prior to 1 January 1983, provision was made for any person

who *would have become* a citizen of either country to retain his citizenship of the United Kingdom and Colonies if, immediately before independence, that person had the right of abode in the United Kingdom. Such people will have become British citizens. Separate arrangements have applied to St Christopher and Nevis (which became independent on 19 September 1983) and Hong Kong (which ceased to be a dependent territory on 1 July 1997). Any claims arising from a connection with either of these former territories should be referred to the NQET.

*ANNEX C* (below) provides lists of former *and* existing British dependencies.

## **4. RENUNCIATION OF CITIZENSHIP OF THE UNITED KINGDOM AND COLONIES OR BRITISH CITIZENSHIP**

CUKCs who renounced that status in order to retain or acquire citizenship of another Commonwealth country may have had right of abode on 31 December 1982 under **s.2(1)(d)** or **s.2(2)** of the **1971 Act** as then in force. Provided they have since remained a Commonwealth citizen, that right will have been preserved by the new **s.2(1)(b)**.

British citizens who renounce that status immediately forfeit their right of abode unless, as a citizen of another Commonwealth country, they have a residual claim under **s.2(1)(b) IA 1971** as amended.

It is open to a person who has renounced citizenship of the United Kingdom and Colonies or British citizenship to apply for resumption of British citizenship under Section 10 or 13 respectively of the British Nationality Act 1981. A person who has resumed British citizenship would qualify *from the date of resumption* for the right of abode.

Caseworkers should seek the advice of NQET if the nationality status of a person who has applied for the right of abode following claimed resumption of British citizenship is in doubt.

## **5. REFERRAL OF CASES/CORRESPONDENCE TO NQET**

Correspondence may raise matters relating to British nationality. Officers dealing with such cases should ensure that the papers are referred as soon as possible to NQET as soon as appropriate (but after all outstanding immigration matters have been cleared). This should be done not only where a direct query is raised by the correspondence but also where a passing reference to British nationality is made which might have a bearing on the case at a later date - for instance an indication that the correspondent intends in due course to apply for registration or naturalisation. It may be desirable in such cases to give the writer guidance which may remove a misconception or save trouble at a later stage.

### **5.1. Cases involving nationality enquiries which may *not* need to be referred to NQET**

Where a person is having the time limit on his stay removed (or already has had the time limit removed) and has enquired about registration or naturalisation, officers may contact NQET for advice and, if necessary, a contribution. It may be sufficient to send one of the leaflets described in paragraph 5.2 below (which are available from NQET or on the BIA website).

NB. Caseworkers should not send a leaflet or provide advice about a person's eligibility for registration or naturalisation without first consulting NQET since it may be necessary to obtain a suitable contribution to the reply.

**All other nationality enquiries should be referred to NQET.**

## **5.2. Leaflets**

The following leaflets outline the law relating to British nationality:

\* Leaflet BN1 is the main leaflet explaining the effects of the British Nationality Act 1981

\* Leaflet BN4 explains transmission of British citizenship by descent and the registration provisions for children of British citizens born abroad

\* Leaflet BN7 explains how a foreign national or a Commonwealth citizen (including the spouse of a British citizen) may be naturalised as a British citizen

\* Leaflet BN9 explains the position of children born in the United Kingdom after 1 January 1983

\* Leaflet BN11 explains how children under eighteen years of age may be registered as British citizens

\* Leaflet BN12 explains how British overseas territories citizens, British Overseas citizens, British subjects (under the 1981 Act), British Nationals (Overseas) and British protected persons may be registered as British citizens

\* Leaflet BN13 explains how certain adult children of British mothers may be registered as British citizens

# **ANNEX C: LISTS OF FORMER BRITISH DEPENDENCIES; AND EXISTING BRITISH OVERSEAS TERRITORIES**

## **1. FORMER BRITISH DEPENDENCIES WHICH HAVE GAINED INDEPENDENCE SINCE 1 JANUARY 1949**

<b>ORIGINAL NAME</b>	<b>STATUS</b>	<b>CURRENT NAME</b>	<b>DATE OF INDEPENDENCE</b>
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Abu Dhabi	Protected State	United Arab Emirates	2.12.71
Aden	Colony	People's Democratic Republic of Southern Yemen	30.11.67
Antigua and Barbuda	Associated State	Antigua and Barbuda	1.11.81
* Ajman	Protected State	United Arab Emirates	2.12.71
Ashanti	Colony	Ghana	6. 3.57
Bahamas	Colony	Bahamas	10. 7.73
Bahrain	Protected State	Bahrain	15. 8.71
Barbados	Colony	Barbados	30.11.66
Basutoland	Colony	Lesotho	4.10.66
Bechuanaland	Protectorate	Botswana	30. 9.66
British Honduras	Colony	Belize	21. 9.81
British Guiana	Colony	Guyana	26. 5.66
+Brunei	Protected State	Brunei	1. 1.75
Cameroons (Northern)	Trust Territory	Nigeria	1. 6.61
Cameroons (Southern)	Trust Territory	Cameroon	1.10.61
Cacos Islands	Colony	Cocos (Keeling) Islands (Australian External Territory)	23.11.55
Cyprus	Colony	Cyprus	16. 8.60
Dominica	Associated State	Dominica	3.11.78
Dubai	Protected State	United Arab Emirates	2.12.71
Ellice Islands	Colony	Tuvalu	1.10.78
Fiji	Colony	Fiji	10.10.70
* Fujairah	Protected State	United Arab Emirates	2.12.71
Gambia	Colony	The Gambia	18. 2.65
Gambia	Protectorate	The Gambia	18. 2.65
Gilbert Islands	Colony	Kiribati	12. 7.79
Gold Coast	Colony	Ghana	6. 3.57
Gold Coast	Protectorate	Ghana	6. 3.57
Grenada	Associated State	Grenada	7. 2.74
*=Hong Kong	Colony	Hong Kong SAR	1. 7.97

Jamaica	Colony	Jamaica	6. 8.62
Johore	Protected State	Malaysia	31. 8.57
Kamran(later merged with Sharjah)	Protectorate	People's Democratic Republic of Southern Yemen	30.11.67
Kedah	Protected State	Malaysia	31. 8.57
Kelantan	Protected State	Malaysia	31. 8.57
Kenya	Colony	Kenya	12.12.63
Kenya	Protectorate	Kenya	12.12.63
*Kuwait	Protected State	Kuwait	1. 7.61
Malacca	Colony	Malaysia	31. 8.57
Malay States	Protected States	Malaysia	31. 8.57
Malaya(Federation of)	Nine Protected States and two Colonies	Malaysia	31. 8.57
# Maldiv Islands	Protected State	Maldiv Islands	27. 7.65
Malta	Colony	Malta	21. 9.64
Mauritius	Colony	Mauritius	12. 3.68
Mombasa Strip (East Africa)	Protectorate	Kenya	12.12.63
< Nauru	Trust Territory	Nauru	31. 1.68
Negri Sembilan	Protected State	Malaysia	31. 8.57
New Hebrides	Anglo French Condominium	Vanuatu	30. 7.80
Nigeria	Colony	Nigeria	1.10.60
Nigeria	Protectorate	Nigeria	1.10.60
North Borneo	Colony	Malaysia	16. 9.63
Northern Rhodesia	Protectorate	Zambia	24.10.64
Nyasaland	Protectorate	Malawi	6. 7.64
Oil Island	Colony	Mauritius	12. 3.68
* Oman (Trucial Sheikdoms)	Protected States	United Arab Emirates	2.12.71
Pahang	Protected State	Malaysia	31. 8.57
Penang (including	Colony	Malaysia	31. 8.57

Province Wellesley)

Perak	Protected State	Malaysia	31. 8.57
Perim	Colony	People's Democratic Republic of Southern Yemen	30.11.67
Perlis	Protected State	Malaysia	31. 8.57
Qatar	Protected State	Qatar Emirates	3. 9.71
* Ras al Khaimah	Protected State	United Arab Emirates	2.12.71
Rodrigues Island	Colony	Mauritius	12. 3.68
Sabah	Colony	Malaysia	16. 9.63
Sarawak	Colony	Malaysia	16. 9.63
Selangor	Protected State	Malaysia	31. 8.57
Seychelles	Colony	Seychelles	29. 6.76
* Sharjah	Protected State	United Arab Emirates	2.12.71
Sierra Leone	Colony	Sierra Leone	27. 4.61
Sierra Leone	Protectorate	Sierra Leone	27. 4.61
Singapore	Colony	Singapore	3. 6.59
Solomon Islands	Protectorate	Solomon Islands	7. 7.78
* Somaliland (British)	Protectorate	Somali Republic	26. 6.60
South Arabia	Protectorate	People's Democratic Republic of Southern Yemen	30.11.67
Southern Rhodesia	Dominion	Zimbabwe	18. 4.80
South-West Africa	Trust Territory	Namibia	25. 8.90
St Christopher & Nevis	Dependent Territory	St Christopher & Nevis	19. 9.83
St Lucia	Associated State	St Lucia	22. 2.79
St Vincent	Associated State	St Vincent and the Grenadines	27.10.79
Swaziland	Protected State	Swaziland	6. 9.68
Tanganyika	Trust Territory	Tanzania	9.12.61
Togoland(British)	Trust Territory	Ghana	6. 3.57
Tonga	Protected State	Tonga	4. 6.70
Trengganu	Protected State	Malaysia	31. 8.57
Trinidad and Tobago	Colony	Trinidad Tobago	31. 8.62

* Trucial Sheikdoms of Oman	Protected State	United Arab Emirates	2.12.71
* Trucial States	Protected State	United Arab Emirates	2.12.71
Uganda	Protectorate	Uganda	9.10.62
* Umm al Qaiwain	Protected State	United Arab Emirates	2.12.71
+ Western Samoa	Trust Territory	Western Samoa	1. 1.62
+ Zanzibar	Protectorate	Tanzania	10.12.63

## KEY

- \* Countries which are not Commonwealth countries
- + A Commonwealth country only since 1 January 1984
- # A Commonwealth country only since 11 March 1985
- < A Commonwealth country only since 31 January 1980
- = Became a Special Administrative Region of the People's Republic of China

## 2. EXISTING BRITISH OVERSEAS TERRITORIES

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Gibraltar

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St. Helena and Dependencies

South Georgia and the South Sandwich Islands \*

The Sovereign Base Areas of Akrotiri and Dhekelia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960)

Turks and Caicos Islands

Virgin Islands

\* South Georgia and the South Sandwich Islands was not a British overseas territory during the period from 3 October 1985 until 3 December 2001

## ANNEX D - REFUSAL FORMULAE

**PLEASE NOTE:** *The following wordings are examples - they do not constitute an exhaustive list of all possible formulae.*

### ON ENTRY

*When a passenger is unable to satisfy the immigration officer as to his claim to the right of abode or that he does not otherwise require leave to enter, he cannot be refused leave to enter on that ground alone. Where, however, the decision is to refuse leave to enter, the notice of decision should begin with a statement to the effect that leave to enter is required. This should be on the lines of one of the following specimens, adapted to the circumstances of the case:*

"You have ...		
	*	"... claimed to have the right of abode in the United Kingdom but you have not produced a United Kingdom passport describing you as a British citizen or as a citizen of the United Kingdom and Colonies with the right of abode; and you do not hold a certificate of entitlement".
	*	"... claimed to be a Commonwealth citizen with the right of abode in the United Kingdom but you do not hold a certificate of entitlement".
	*	"... presented (or produced to me) a British passport No ... giving you the right of abode in the United Kingdom but ..."
		[... I am not satisfied that you are the rightful holder of this passport.]
		[... I have reason to believe that you improperly obtained this passport.]
		[... you have no entitlement to this passport/the passport is forged etc;]
I have therefore decided that you require leave to enter the United Kingdom".		

### AFTER ENTRY

*A right of appeal exists against refusal of a certificate of entitlement and notices of refusal should be made on form APP103.*

"You have applied for a certificate of entitlement to the right of abode under section 10 of Nationality, Immigration and Asylum Act 2002 on the grounds that you are [a British citizen/an eligible Commonwealth citizen] but given that [...] the Secretary of State is not satisfied that ..."		
	*	"you are without other means, as specified in section 3(9) of the Immigration Act 1971, of proving your right of abode in the United Kingdom"

	*	"... you were such a citizen at birth or that you have subsequently acquired such citizenship by adoption, registration or naturalisation".
	*	"... you were, on 31 December 1982, a Commonwealth citizen who held right of abode under section 2(1)(d) or 2(2) of the Immigration Act 1971 as then in force and that you have remained such a citizen at all times since".