

PART I: BRITISH CITIZENSHIP

CHAPTER 8:REGISTRATION BY ENTITLEMENT OF PERSONS BORN IN THE UNITED KINGDOM ON OR AFTER 1 JANUARY 1983:

(A) ON GROUNDS OF PARENT'S STATUS SECTION 1(3)

(B) ON GROUNDS OF PARENT'S ARMED FORCES SERVICE

SECTION 1(3A)

(B) ON GROUNDS OF RESIDENCE

SECTION 1(4)

8.1 The Law

8.1.1 Section 1(3)

8.1.1.1 Minors are entitled to registration under **s.1(3)** of the British Nationality Act 1981 if:

- a. they were born in the United Kingdom on or after 1 January 1983; and
- b. they were not British citizens at birth because at the time neither parent was:
 - a British citizen, or
 - settled in the United Kingdom, or
 - serving as a member of the UK armed forces (if born on or after 13 January 2010) ; and
- c. while they are minors, either parent becomes a British citizen or becomes settled in the United Kingdom; and
- d. they are minors on the date of application; and

- e. the Secretary of State is satisfied that they are of good character (this applies to children over the age of 10 and to applications made after 4 December 2006 (see **Chapter 9**, Annex B)

8.1.2 Section 1(3A)

8.1.2.1 Minors are entitled to registration under **s.1(3A)** of the British Nationality Act 1981 if:

- a. they were born in the United Kingdom on or after 13 January 2010; and
- b. they were not British citizens at birth because at the time neither parent was:
 - a British citizen, or
 - settled in the United Kingdom, or
 - serving in the UK Armed Forces; and
- c. while they are minors, either parent becomes a member of the UK Armed Forces; and
- d. they are minors on the date of application; and
- e. in the case of a person aged 10 or over, the Secretary of State is satisfied that they are of good character (see **Chapter 9**, Annex B)

8.1.3 Section 1(4)

8.1.3.1 Adults or minors are entitled to registration under **s.1(4)** of the BNA 1981 if they:

- a. were born in the United Kingdom on or after 1 January 1983; and
- b. were not a British citizen at birth because at the time neither parent was:
 - a British citizen, or
 - settled in the United Kingdom, or
 - serving as a member of the UK Armed Forces (if born on or after 13 January 2010); and
- c. were aged 10 years or more on the date of application; and
- d. have lived in the United Kingdom for the first 10 years of their life; and
- e. during that 10 years have not been out of the United Kingdom for more than 90 days in any one of those years; and
- f. the Secretary of State is satisfied that they are of good character (for applications made on or after 4 December 2006 (see **Chapter 18**, Annexes D and H and, in relation to applicants who are still minors, **Chapter 9**, Annex B)

8.1.3.2 There is discretion under **s.1(7)** to allow absences from the United Kingdom amounting to more than 90 days in any one or more of the first 10 years of the person's life. (See

paragraph 8.4 below)

8.1.4 Registration under **s.1(3)**, **s.1(3A)** and **s.1(4)** give British citizenship otherwise than by descent. (See **Chapter 20**)

8.1.5 An explanation of the terms "United Kingdom", "British overseas territory", "qualifying territories", "'member of the armed forces'", "parent" and "settled" are in Annex F to **Chapter 6**.

8.2 **Application forms**

8.2.1 An application should normally be made:

- on Form MN1 (if made under **s.1(3)** or **s.1(3A)**); or
- on Form T (if made under **s.1(4)**); or
- by being included in a parent's application for citizenship (if the person is a minor)

8.3 **Evidence to be supplied**

8.3.1 To guard against the possibility of fraud, we should expect to see evidence of identity over and above that required to establish an entitlement to registration. It should be remembered, in particular, that a birth certificate is evidence not of identity, but of an event.

8.3.2 We should take into account any evidence already on the file. If documents have been seen and noted in the past there is no need to ask to see them again. If the parents' marriage or a parent and child relationship has been accepted as valid by an Entry Clearance Officer,

Immigration Officer, Home Office official, or any tribunal or court in the United Kingdom, there is no need to ask for further evidence unless there is cause to doubt the previously accepted position. It should be noted, however, that on occasions a subsisting relationship is accepted for immigration purposes whereas for nationality purposes a valid marriage is needed.

Section 1(3) and 1(3A)

8.3.3 Applications under **s.1(3)** and **s.1(3A)** should be supported by evidence of:

- i. birth in the United Kingdom:
 - a. on or after 1 January 1983, or
 - b. on or after or after 13 January 2010 (for applications under **s.1(3A)**):
 - the minor's United Kingdom birth certificate showing parents' details

Applications under s.1(3) should, in addition, be supported by evidence of:

- ii. a parent's British citizenship:
 - a passport describing the holder as a British citizen; or
 - a certificate of registration or naturalisation describing the holder as a British citizen,

OR

iii. a parent's settled status:

- an immigration officer's stamp in a passport showing the holder has been given leave to enter the United Kingdom for an indefinite period or without any restriction on the period of stay here; or
- a Home Office stamp in a passport or Police Registration Certificate showing the holder has indefinite leave to remain in the United Kingdom or that there is no limit on his/her stay here; or
- a Home Office letter to the effect that the addressee has been granted indefinite leave to remain in the United Kingdom

NB. A certificate of entitlement or patriality in a passport showing the holder has the right of abode in the United Kingdom or a stamp in a passport showing the holder is exempt from immigration control is not evidence that he or she is settled in the United Kingdom. But some persons who have certificates of entitlement or patriality or who are exempt from immigration control can nevertheless be regarded as settled here.

Applications under section 1(3A) should, in addition, be supported by evidence of:

iv. a parent's service in the UK Armed Forces:

- a Home Office stamp in a passport showing the holder is entitled to exemption under **s.8(4)(a)** of the **Immigration Act 1971**; or
- a letter from the Ministry of Defence confirming details of Armed Forces service (including details of postings at the time of the birth and dates of service)

AND

- v. if the child is born before 1 July 2006 and the application is based on the father having become a British citizen or settled in the United Kingdom, evidence that either:
 - a. the parents were married at the time of the child's birth, or
 - b. if the parents married after the child's birth, the marriage served to legitimate the birth (see Volume 2 – "**LEGITIMACY**"); or
- vi. if the child is born on or after 1 July 2006 and the application is based on the father having become a British citizen or settled in the United Kingdom, or a member of the UK armed forces, evidence that the father comes within the definition of "parent" in **Chapter 6** Annex F

8.3.4 Where the application is based on the relevant parent's settled status, and he or she appears to be exempt from immigration control, or where there is otherwise any doubt about whether he or she is settled in the United Kingdom, the application should be referred to Immigration for confirmation of the parents' immigration status. This

will normally be the CMU which deals with:

- the country or territory of which the parent is a national or citizen;
or
- (if the parent is a BN(O), BOC, BS, or BPP), the country in which the parent is living; or
- (if the parent is a BN(O), BOC, BS, or BPP who is in the UK), the country in which the parent last lived, or appears to have lived

8.3.5 An application must also be supported by two referees who have known the child personally for at least 3 years. These references will not automatically be taken up. The application should also include a recent passport sized photograph of the child stapled or clipped into the space provided on the form. For further guidance on referees and identity, see **Chapter 6** paragraph 6.3.

Section 1(4)

8.3.6 Applications under **s.1(4)** should be supported by evidence of the applicant's:

- i. birth in the United Kingdom on or after 1 January 1983:
 - the minor's United Kingdom birth certificate showing parents' details
- ii. residence in the United Kingdom from birth to age 10:
 - a. from birth to age 5:

- medical cards, letters from doctors/clinics, letters from friends, relations, etc. Passport/travel document if the person has travelled

b. from age 5 to 10:

- school letters will be acceptable

AND

iii. absences of no more than 90 days in any of the first 10 years of the person's life:

- original passport/travel document (own or included in a parent's). If no absences are shown, we can assume there were none.

8.3.7 Applications supported by evidence of some of the person's residence in the United Kingdom up to the age of 10 may be accepted if the gaps in the evidence do not relate to periods exceeding 90 days in any one of those years.

8.3.8 An application must also be supported by two referees who have known the child personally for at least 3 years. These references will not automatically be taken up. The application should also include a recent passport sized photograph of the child stapled or clipped into the space provided on the form. For further guidance on referees and identity, see **Chapter 6** paragraph 6.3.

8.4 **Exercise of discretion to allow excess absences (section 1(4))**

8.4.1 **Section 1(7)** gives discretion to allow absences of more than 90 days in any one or more of the first 10 years of the person's life. We should normally waive excess absences:

- if the number of days absent from the UK in any one of those years does not exceed 180 days, and the total number of days absent over the 10 year period does not exceed 990 days; or
- (if the number of days absent exceeds 180/990 respectively) the excess absence is the result of circumstances beyond the family's control (e.g. a serious illness)

8.4.2 We should not normally waive excess absences over the 180/990 day limit simply because:

- the applicant's parents were unaware of the requirements; or
- the parent's absences, with the person, were entirely voluntary

8.5 **Checking the application**

8.5.1 **Checking for automatic claims**

8.5.1.1 A person born in the United Kingdom on or after 1 January 1983 may already be a British citizen under **s.1(1)** if a parent was a British citizen, or settled in the United Kingdom, or serving in the armed forces (see **Chapter 3**).

8.5.1.2 Unless it is absolutely clear from the papers we have that the minor is already a British citizen, we need not investigate

further. Equally, we do not have to prove the child did not acquire British citizenship before we consider the application.

8.5.1.3 If the person has an automatic claim, we should:

- write to say so; and
- explain that registration is not necessary (using the procedure in **Chapter 3.6**); and
- refund in full any fee submitted with the application (see **Chapter 6**)

8.5.2 Checking for an entitlement under paragraph 3 of Schedule 2

8.5.2.1 If there is no automatic claim under **s.1(1)** or an entitlement under **s.1(3)**, **s.1(3A)** or **s.1(4)**, there may be an entitlement under **paragraph 3** of **Schedule 2** if the person is stateless (see **Chapter 15**).

8.5.3 No entitlement

8.5.3.1 If there is no entitlement under either **s.1(3)**, **s.1(3A)**, **s.1(4)** or **paragraph 3** of **Schedule 2**, we should:

- consider the application under **s.3(1)** (if a minor on the date of application) (see **Chapter 9**) or
- refuse the application and explain to the applicant that he/she will need to apply for naturalisation, if over 18

8.5.4 Parent applying for citizenship

- 8.5.4.1 If a parent is applying for citizenship, and has included a minor child in his or her application, the child may be entitled to registration even if the parent's application is refused.
- 8.5.4.2 In such cases we will have to explain to the parent why the child can be registered even though the parent's application is refused. A draft paragraph for inclusion in the parent's refusal letter is at Annex A.
- 8.5.4.3 When applying for citizenship some parents may omit to seek the registration of children born in the United Kingdom on or after 1 January 1983 in the mistaken belief that the children are already British citizens. If we know that such children exist, we should advise the parents of the correct position and send application Form(s) MN1, S3 and/or T in case they wish to apply for their children's registration.

8.5.5 Parent applying for settlement

- 8.5.5.1 It is possible that a parent may apply for settlement either at the same time as applying for the registration of a child or before such an application has been determined.
- 8.5.5.2 In these circumstances, the parent's application for settlement must be determined first as the outcome could affect the determination of the application for registration.
- 8.5.5.3 Therefore if this situation arises, the file should be referred to Immigration with a request for it to determine the parent's

application for settlement and return the file to the Nationality Group.

8.5.5.4 If the parent is given settlement, the application for registration can be regarded as having been made under **s.1(3)** provided the other requirements in 8.1.1 are met and be determined accordingly.

8.5.6 Parent applying to join the Armed Forces

8.5.6.1 It is also possible that a parent may have applied to join the armed forces and is awaiting a decision on whether their application has been accepted.

8.5.6.2 In the event that the parent's recruitment is imminent (i.e. within 1 month), we should ask the parent to provide confirmation from the Ministry of Defence that their contract of employment has been completed. If it has, then we can regard the minor's application as having been made under **s.1(3A)** provided the other requirements in 8.1.1 are met and be determined accordingly.

8.5.7 If the parent is not given settlement, or the decision on the parent's recruitment application is not imminent or is unsuccessful, we should consider the application under **s.1(4)**. If there is no entitlement under **s.1(4)**, we should proceed as in 8.5.2 - 8.5.3 above.

8.6 **Consent to the application**

8.6.1 As the applicant has an entitlement to be registered as a British citizen

if the requirements in 8.1.1, 8.1.2 or 8.1.3 above are met, the absence of parental consent (in cases where the applicant is a minor) is not a reason for refusal. Therefore it is not necessary for the parent(s) or the person(s) having responsibility for the minor to consent to the application.

8.7 **Oath and pledge**

8.7.1 An oath of allegiance and pledge may have to be taken at a citizenship ceremony if:

- the applicant applies under **s.1(4)** as an adult; or
- the applicant applies under **s.1(3)**, **s.1(3A)** or **s.1(4)** as a minor but becomes an adult by the time the case is decided

8.7.2 See **Chapter 6** for the procedures to be followed.