

PART I: BRITISH CITIZENSHIP

CHAPTER 11: REGISTRATION BY ENTITLEMENT OF PERSONS BORN OUTSIDE THE UNITED KINGDOM/THE QUALIFYING TERRITORIES TO MEMBERS OF THE ARMED FORCES

SECTION 4D BRITISH NATIONALITY ACT 1981

11.1 The Law

11.1.1 Adults and minors are entitled to registration as British citizens under **s.4D** of the British Nationality Act 1981 if:

- a. they were born outside the United Kingdom and the qualifying territories on or after 13th January 2010 ; and
- b. at the time of the birth, their father or mother was:
 - i. a member of the armed forces; and
 - ii. serving outside the United Kingdom and the qualifying territories; and
- c. We have the consent of the father and mother , if the person is a minor on the date of application; and
- d. If the person is aged 10 or over on the date of application, the Secretary of State is satisfied that they are of good character. See Annex B to **Chapter 9** (for minors) or Annex D to **Chapter 18** (for adults)

11.1.2 An explanation of the terms "United Kingdom", "British overseas territory", "qualifying territory", "armed forces", "father", "mother" and "parent" is in Annex F to **Chapter 6**.

11.2 **Status acquired**

11.2.1 Registration under **s.4D** gives British citizenship otherwise than by descent. In cases where the non-serving parent is a British citizen by descent only, thereby providing an alternative registration route, it is important to ensure that, if they have a **s.4D** entitlement, they are registered under this section - as registration under **s.3(1)** or **s.3(2)** would give British citizenship by descent. (See **Chapter 20**)

11.3 **Consent to the application**

11.3.1 Where an application is made on behalf of a minor, parental consent is a statutory requirement for registration under **s.4D**. This means that we cannot normally register a minor under **s.4D** unless both parents have given their consent to the child's registration (but see 11.3.2 below). There is discretion to waive this requirement.

Guidance on the exercise of discretion to waive parental consent will be issued in due course.

11.4 **Application forms**

11.4.1 The application should normally be made on Form MN1.

11.5 **Evidence to be supplied**

11.5.1 An application must be supported by two referees. If the applicant is under 18, one of the referees should have known the child in a professional capacity. These references will not automatically be taken up. The application should also include a recent passport sized photograph of the applicant stapled or clipped into the space provided on the form. For further guidance on referees and identity, see **Chapter 6** paragraph 6.3.

11.5.2 Applications should also be supported by evidence as follows:

- the person's birth certificate showing the parents' details; and
- if the serving parent is the father, evidence that he comes within the definition of "parent" in Annex F to **Chapter 6**; and
- evidence that a parent is a member of the armed forces who, when the person was born, was serving outside the United Kingdom and qualifying territories - i.e. a letter from the Ministry of Defence confirming details of:
 - i. which units of the armed forces the parent served with
 - ii. where and when the parent was serving outside the United Kingdom and qualifying territories so that we can be confident this correlates to the date of birth of the child

- The consent of both parents; or
- Where we do not require the consent of both parents because one of them has died, the relevant parent's death certificate

The evidence required where we propose to exercise discretion to waive consent will be listed in due course.

11.5.3 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.

11.5.4 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 official in a qualifying territory, or any tribunal or court in the United Kingdom or qualifying territory, 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.

11.6 **Checking the application**

11.6.1 Checking for automatic claims

11.6.1.1 A minor may already be a British citizen under **s.1(1)** or

s.2(1) if:

- a parent was a British citizen otherwise than by descent at the time of the minor's birth (see **Chapter 20**); or
- a parent was, at the time of the minor's birth, a British citizen by descent in service to which **s.2(1)(b)** or **(c)** of the 1981 Act applies (see **Chapters 4** and **20**); or
- (if born in a British overseas territory) a parent was a British citizen or settled in that territory (see **Chapter 3**); or
- (if otherwise born stateless) a parent was a British citizen (see **Chapter 5**); or
- he or she was a British overseas territories citizen by virtue of a connection with a qualifying territory (see **Chapter 2**)

11.6.1.2 Unless it is absolutely clear from the papers we have that the child is already a British citizen, we need not investigate this possibility. Equally, we do not have to prove the child did not acquire British citizenship before we consider the application.

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

- write to say so; and

- explain that registration is not necessary (using the procedure in **Chapters 4.6 or 5.7** as appropriate); and
- refund in full any fee submitted with the application (see **Chapter 6**)

11.6.2 Checking for entitlement to registration

11.6.2.1 A minor who does not have an automatic claim to British citizenship or entitlement to registration under **s.4D** may be entitled to registration under **s.3(2)** or **s.3(5)** (see **Chapter 10**), or **paragraph 4** of **Schedule 2** (see **Chapter 15**) of the British Nationality Act 1981.

11.6.3 No immediate entitlement

11.6.3.1 If the applicant does not have an entitlement to registration, and is aged under 18 on the date of application, the application should be considered under the discretionary provision of **s.3(1)** (see **Chapter 9**).

11.7 Oath and pledge

11.7.1 If the applicant is an adult, or has become an adult by the time the case is decided, he or she will have to attend a citizenship ceremony and make an oath of allegiance and pledge (see **Chapter 6**).