

## PART I: BRITISH CITIZENSHIP

### CHAPTER 13: REGISTRATION BY ENTITLEMENT OF BRITISH OVERSEAS TERRITORIES CITIZENS WHO ARE UNITED KINGDOM NATIONALS FOR EUROPEAN COMMUNITY PURPOSES

#### SECTION 5 BRITISH NATIONALITY ACT 1981

##### 13.1 The Law

13.1.1 Under **s.5** of the British Nationality Act 1981, a person of any age is entitled to registration as a British citizen if:

- a British overseas territories citizen (formerly British Dependent Territories citizen); and
- a United Kingdom national for European Community purposes; and
- (in the case of a person aged 10 or over on the date of application, this being a date on or after 4 December 2006) the Secretary of State is satisfied that s/he is of good character (see Chapter 18, Annexes D and H and, in relation to applicants who are still minors, Chapter 9, Annex B).

13.1.2 The definition of a "United Kingdom national for European Community purposes" is contained in a declaration made to the European Commission by the United Kingdom. The text of the declaration (which still refers to "British Dependent Territories citizen" but nonetheless remains valid) is at Annex A.

13.1.3 Because of the terms of the definition, **s.5** can apply only to a British overseas territories citizen who acquired that status through a connection with Gibraltar.

13.1.4 Furthermore, **s.3** of the **British Overseas Territories Act 2002** provided

that British citizenship was acquired automatically on 21 May 2002 by persons who, immediately before that date, were British overseas territories citizens by connection with certain British overseas territories (including Gibraltar). As a result, **s.5** can now only apply to British overseas territories citizens who acquired that citizenship on or after 21 May 2002 by naturalisation or registration.

- 13.1.5 A person registered under **s.5** is a British citizen by descent. (See **Chapter 20**)

## 13.2 **Application form**

- 13.2.1 The application should normally be made on Form G.
- 13.2.2 Under **Regulation 4(3)** of the **British Nationality (General) Regulations 1982** (for applications made before 1 April 2003) and **Regulation 4(3)** of the **British Nationality (General) Regulations 2003** (for applications made on or after 1 April 2003), the application must be made to the Governor of Gibraltar, wherever the applicant is living.

## 13.3 **Applications made to the Home Office**

- 13.3.1 If an application for registration under **s.5** is received in the Home Office, and it is immediately clear that the applicant is ineligible to be registered under this provision, for example, because there is no connection with Gibraltar, the application should be refused. A letter should be sent explaining this and pointing out any avenues to British citizenship which appear to be open to the applicant.
- 13.3.2 If the applicant appears to be eligible to be registered under **s.5**, the application should be returned with a letter advising the applicant to apply to the Nationality and Passport Section, Civil Status and Registration Office, Gibraltar.

- 13.3.3 The Government of Gibraltar charges a fee for registration but no fee is payable to the Home Office. Any fee sent with an application received in the Home Office should therefore be refunded in full. (See **Chapter 6**)

13.4 **Registration procedure**

- 13.4.1 Registration is an entitlement providing the conditions are met. All applications are considered in Gibraltar, and then granted in the Nationality Group by the issue of the certificate of registration.
- 13.4.2 With applications made before 1 January 2004, the Civil Status and Registration Office sends the papers to the Citizenship Ceremonies Support Team (CCST), which arranges for a certificate of registration to be produced and returned to that Office.
- 13.4.3 With applications made on or after 1 January 2004:
- a. the Civil Status and Registration Office sends the papers to the CCST for the application to be granted
  - b. the CCST arranges for an undated certificate of registration to be produced and forwarded to the Civil Status and Registration Office
  - c. arrangements are made in Gibraltar for the applicant to attend a citizenship ceremony to make the oath and pledge
  - d. the Civil Status and Registration Office dates the certificate with the date of the ceremony and notifies the CCST of the date on which the oath and pledge are made
  - e. the CCST updates the computer record of the registration
- 13.4.4 If the application is refused the Civil Status and Registration Office informs the applicant directly without reference to the Home Office.