

PART II: BRITISH OVERSEAS TERRITORIES CITIZENSHIP

CHAPTER 26: REGISTRATION BY ENTITLEMENT OF MINORS BORN IN A BRITISH OVERSEAS TERRITORY ON GROUNDS OF A PARENT'S STATUS

SECTION 15(3) BRITISH NATIONALITY ACT 1981

NB. In respect of any time before 26 February 2002, references in this Chapter to British overseas territories citizenship and the British overseas territories should be read as references to British Dependent Territories citizenship and the British dependent territories.

26.1 The Law

26.1.1 A person is entitled to registration under **s.15(3)** of the British Nationality Act 1981 if:

- born in a British overseas territory on or after 1 January 1983; and
- not a British overseas territories citizen at birth because, at the time, neither parent was a British overseas territories citizen or settled in a British overseas territory; and
- while the person is a minor, either parent becomes a British overseas territories citizen or becomes settled in a British overseas territory; and
- the person is still a minor on the date of application; 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 (or the Governor acting on his behalf) is satisfied that the person is of good character (see **Chapter 9**, Annex B).

26.1.2 An explanation of the terms 'British overseas territory', 'parent' and 'settled' is in Annex F to **Chapter 6**.

26.1.3 Registration under **s.15(3)** gives British overseas territories citizenship otherwise than by descent (see **Chapter 36**).

26.2 Application forms

26.2.1 See **Chapter 21**.

26.3 **Evidence to be supplied**

26.3.1 To guard against the possibility of fraud, nationality caseworkers 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.

26.3.2 Applications should be supported by evidence as follows:

- the minor's British overseas territories birth certificate showing parents' details;

AND

- a parent's British overseas territories citizenship:
 - i. a passport describing the holder as either a British Dependent Territories citizen or a British overseas territories citizen; or
 - ii. a certificate of registration or naturalisation describing the holder as a British Dependent Territories citizen or a British overseas territories citizen; or
 - iii. a certificate of registration or naturalisation issued in a British overseas territory describing the holder as a citizen of the United Kingdom and Colonies; or
 - iv. a birth certificate showing his or her parents' details and that he or she was born in a British overseas territory before 1 January 1983; or
 - v. (if born on or after 1 January 1983) a birth certificate showing his or her parents' details and that he or she was born in a British overseas territory and evidence that, at the time of the birth, either parent was a British overseas territories citizen or settled in a British overseas territory

OR

- a parent's settled status:
 - i. information about what constitutes evidence of a parent's settled status in a British overseas territory should be available in/from the authorities of the territory concerned or, where the place is no longer a British overseas territory, from the British Consulate or High Commission

AND

- if the child is born before 1 July 2006 and the application is based on the father having become a British overseas territories citizen or settled in a British overseas territory, the parents' marriage (i.e. a marriage certificate), or
- if the child is born on or after 1 July 2006 and the application is based on the father having become a British overseas territories citizen or settled in a British overseas territory, evidence that the father comes within the definition of "parent" in **Chapter 6 Annex F**

26.3.3 Nationality caseworkers should take into account any evidence already available. 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 or British overseas territories official, or any tribunal or court in the United Kingdom or a British overseas 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.

26.4 Checking the application

IMPORTANT NOTE: Where an apparent claim or entitlement derives from a personal or ancestral connection with St Christopher and Nevis, it is necessary to consider the effects of the **Saint Christopher and Nevis**

Modification of Enactments Order 1983. Where an apparent claim or entitlement derives from such a connection with Hong, it is necessary to consider the effects of the **Hong Kong (British Nationality) Order 1986** and the **Hong Kong (British Nationality) (Amendment) Order 1993** (see **Chapter 21.4**). Where an apparent claim or entitlement derives from a connection with the British Indian Ocean Territory, it is necessary to consider the effects of the **British Overseas Territories Act 2002**.

26.4.1 Checking for automatic claims

26.4.1.1 The person will already be a British overseas territories citizen at birth under **s.15(1)** if:

- a parent was a British overseas territories citizen when the person was born; or
- a parent was settled in a British overseas territory when the person was born

26.4.1.2 The person will already be a British citizen at birth under **s.1(1)**, as amended by the **British Overseas Territories Act 2002**, if:

- born in a qualifying territory on or after 21 May 2002; and either
 - i. a parent was a British citizen when the person was born; or
 - ii. a parent was settled in that territory when the person was born

26.4.1.3 Unless it is absolutely clear from the papers already available that the person is already a British overseas territories citizen or British citizen, nationality caseworkers need not investigate further. Equally, it need not be proved the person did not acquire British overseas territories citizenship before considering the application.

26.4.1.4 If the person has an automatic claim to British overseas territories citizenship, the caseworker should write to say so, and explain that registration is not necessary (using the procedure

in **Chapter 23**) and refund in full any fee submitted with the application (see **Chapter 21**).

26.4.2 Checking for an entitlement under section 15(4) or under paragraph 3 of Schedule 2

26.4.2.1 If there is no automatic claim under **s.15(1)** or entitlement under **s.15(3)** because neither parent was, or has become, settled or a British overseas territories citizen, there may be an entitlement:

- under **s.15(4)**, on grounds of residence, if the person was aged 10 or over at the date of application (see **Chapter 27**); or
- under **paragraph 3 of Schedule 2**, on grounds of residence, if the person is and always has been stateless and was under 22 on the date of application (see **Chapter 31**)

26.4.3 No entitlement

26.4.3.1 If it is decided that there is no entitlement under either:

- **s.15(3)**; or
- **s.15(4)**; or
- **paragraph 3 of Schedule 2**; and
- the person was a minor on the date of application,

the application should be considered under **s.17(1)** (see **Chapter 28**).

26.4.4 Parent applying for citizenship

26.4.4.1 If a parent is applying for citizenship, and has included a minor child in his or her application, the child may have an entitlement under **s.15(3)**, **s.15(4)** or **paragraph 3 of Schedule 2** even if the parent's application is refused.

26.4.4.2 In such cases, it should be explained 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.

26.4.4.3 When applying for citizenship, some parents may omit to seek the registration of children born in a British overseas territory on or after 1 January 1983 in the mistaken belief that the children are already British overseas territories citizens. If it is known that such children exist, the parents should be advised of the correct position and told how they can apply for their children's registration.

26.5 Consent to the application

26.5.1 As the person has an entitlement to be registered as a British overseas territories citizen if the requirements in 26.1.1 above are met, the absence of parental consent is not a reason for refusal. Therefore, it is not necessary for the parent(s) or the person(s) having parental responsibility for the applicant to consent to the application.

26.6 Oath and pledge

26.6.1 If the application is made before 1 January 2004, the person may have to take an oath of allegiance if he or she becomes an adult by the time the case is decided.

26.6.2 If the application is made on or after 1 January 2004, an applicant who becomes an adult before the case is decided will have to make a citizenship oath and pledge before he or she can be registered.

26.6.3 For more detailed guidance on the oath or oath/pledge requirements, see **Chapter 21**.