

PART IV: BRITISH SUBJECTS

CHAPTER 43: AUTOMATIC ACQUISITION ON 1 JANUARY 1983

SECTIONS 30 and 31(2) BRITISH NATIONALITY ACT 1981

43.1 Introduction

43.1.1 This Chapter deals only with the automatic acquisition of British subject status on 1 January 1983 by those who were British subjects on 31 December 1982.

43.1.2 Acquisition of British subject status on or after 1 January 1983 by persons who would otherwise be stateless is dealt with in **Chapter 44**.

43.2 The Law

43.2.1 **Sections 30 and 31(2)** of the British Nationality Act 1981 explains which people, who were British subjects before 1 January 1983, acquired British subject status under the Act automatically on that date.

43.2.2 Under **s.30(a)**, a person automatically became a British subject under the Act on 1 January 1983 if, immediately before that date, he or she was a British subject without citizenship by virtue of **s.13** or **16** of the **British Nationality Act 1948**.

43.2.3 A person was a British subject without citizenship under **s.13** of the **1948 Act** on 31 December 1982 if he or she:

- a. was born before 1 January 1949; and
- b. was a British subject on 31 December 1948 (see Annex A);
and
- c. on 1 January 1949:
 - did not become a CUKC (see Annex B)
 - was not a citizen of Eire (see Annex B)
 - was not a citizen of Canada, Ceylon (Sri Lanka) or New

Zealand (see Annex B); and

d. did not before 1 January 1983 become either:

- a CUKC (see Annex B); or
- a citizen of Eire (the Republic of Ireland) (see Annex B); or
- a citizen of any Commonwealth country, including (at any time) Pakistan (see Annex B); or
- an alien by making a declaration of alienage under **s.14** of the **British Nationality and Status of Aliens Act 1914**

43.2.4 A person was a British subject without citizenship under **s.16** of the **1948 Act** on 31 December 1982 if he or she:

a. was born before 1 January 1949; and

b. before 1 January 1949:

- while a minor (i.e. under 21), ceased to be a British subject under **s.12(1)** of the **British Nationality and Status of Aliens Act 1914**; and
- had not made a declaration of resumption of British nationality under **s.12(2)** of the **1914 Act**; and

c. would, but for **s.12(1)** of the **1914 Act**, have become, on 1 January 1949, either:

- a CUKC (see Annex B)
- a BSWC under **s.13** of the **1948 Act** (see 43.2.3 a.-c. above); and

d. had, between 1 January 1949 and 31 December 1982 inclusive:

- made a declaration of resumption of British

nationality under **s.16(2)** of the **1948 Act**; and

- was, as a result, treated as if he or she had become on 1 January 1949 a BSWC under **s.13** of the **1948 Act** not a CUKC (see Annex B); and

e. as 43.2.3 d. above

43.2.5 Under **s.30(b)**, a woman automatically became a British subject under the Act on 1 January 1983, if immediately before that date, she was a British subject by virtue of **s.1** of the **British Nationality Act 1965**.

43.2.6 A woman was a British subject under **s.1** of the **1965 Act** on 31 December 1982 if she:

- a. had been registered under **s.1(1)** of the **1965 Act**; and
- b. (if her registration was on grounds of marriage to a BSWC under **s.13** or **16** of the **1948 Act**), she had not since the date of registration become either:
 - a citizen of the United Kingdom and Colonies; or
 - a citizen of a Commonwealth country; or
 - a citizen of the Republic of Ireland

43.2.7 Under **s.31(2)**, a person automatically became a British subject under the Act on 1 January 1983 if, immediately before that date, he or she was a British subject by virtue of **s.2** of the **British Nationality Act 1948**.

43.2.8 A person was a British subject under **s.2** of the **1948 Act** on 31 December 1982 if he or she:

- a. was born before 1 January 1949; and
- b. was a British subject on 31 December 1948 (see Annex A); and
- c. was a citizen of Eire on 31 December 1948 (see Annex B); and

- d. on 1 January 1949, he or she:
- did not become a citizen of the United Kingdom and Colonies (see Annex B)
 - was not a citizen of Canada, Ceylon (Sri Lanka) or New Zealand (see Annex B)
 - did not become a BSWC under **s.13** of the **1948 Act** (see Annex B); and
- e. made a claim to remain a British subject on all or any of the following grounds:
- Crown service under the Government of the United Kingdom
 - Possession of a British passport issued by the United Kingdom Government or the government of a colony, protectorate, United Kingdom mandated or trust territory
 - Associations by descent, residence or otherwise with the United Kingdom, a colony, protectorate, mandated or trust territory

43.2.8.1 A parent or guardian could make claims on behalf of children under 16.

43.2.8.2 Claims had to be made in writing and were normally made on Form E2A. This was acknowledged by Form E3A.

43.2.8.3 A person who made such a claim is deemed to have remained a British subject from 1 January 1949 to the time the claim was made (**s.31(4)**).

43.2.8.4 An alphabetical card index of claims is kept in INPD(L) General Enquiries Section.

43.2.9 British subject status is not transmissible and the question of whether a person is a British subject by descent or

otherwise does not arise.

43.3 Claims to British subject status

43.3.1 We will need to investigate claims to British subject when:

- a person has written to enquire about his or her own status
- a person's own status affects someone else (e.g. a spouse, child or grandchild) who may, as a result, derive British subject status automatically from that person

43.4 Procedure for establishing claims

43.4.1 To recognise a person's claim to British subject status under **s.30** or **31(2)** of the British Nationality Act 1981, we need to establish that, on 31 December 1982, the person was:

- a British subject without citizenship under **s.13** or **16** of the **British Nationality Act 1948**; or
- a British subject under **s.1** of the **British Nationality Act 1965**; or
- a British subject under **s.2** of the **British Nationality Act 1948**

43.4.2 Annex A and B to this Chapter and the other sources quoted in 43.2 above should be consulted to establish whether the person concerned became a British subject on 1 January 1983 under **s.30** or **31(2)** of the British Nationality Act 1981. The term 'father' in the charts means the father of a legitimate child. An illegitimate child may be legitimated by the subsequent marriage of the parents.

43.5 Evidence required

43.5.1 A person may be regarded as a British subject under the 1981 Act on production of:

- a passport describing the holder as a British subject; or
- a certificate of registration describing the holder as a

British subject; or

- an acknowledgement of a claim to remain a British subject under **s.2** of the **British Nationality Act 1948**; or
- the relevant documents related to the person's, his or her parents', grandparents', or spouse's birth, adoption, marriage, death, registration or naturalisation, which establish that he or she became, on 1 January 1949, a British subject without citizenship under **s.13** or **16** of the **British Nationality Act 1948**, and had that status on 31 December 1982

NB. A person who was formerly a British subject without citizenship under **s.13** or **16** of the **1948 Act**, or under **s.1** of the **1965 Act** by reason of marriage to such a person, automatically ceases to be a British subject if he or she acquires any other nationality or citizenship. Unless there is evidence to the contrary, it should be assumed that the person concerned has not acquired another citizenship or nationality and is still a British subject.

43.5.2 To guard against the possibility of fraud, we should expect to see evidence of identity over and above that required to establish a claim to British subject status before formally acknowledging a claim. It should be remembered, in particular, that a birth certificate is evidence of an event, not of identity.

43.5.3 We should take into account any evidence already on file. If documents have been examined in the past we do not need to ask to see them again. If a particular marriage or parent and child relationship has been accepted as valid by an Entry Clearance Officer, Immigration Officer, Home Office or existing or former British overseas territories official, or any tribunal or court in the United Kingdom or an existing or former British overseas territory we do not need to ask for any further evidence except where later information provides reasonable grounds 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.

43.5.4 In the absence of some or all of the documentary evidence set out in 43.5.1 above, secondary evidence may be acceptable.

43.6 **Confirmation of claims**

43.6.1 Where we can accept that a person became a British subject on 1 January 1983, then:

- a. if a claim to that status has been established by production of all the appropriate documents, we should send a letter along the lines of the draft at Annex C.
- b. if it is a complicated claim (e.g. involving difficult legitimacy or marriage law, several independence acts etc); or
- c. if it has not been possible to supply detailed evidence; and
- d. we are nonetheless satisfied that the claim is valid, we should send a status letter (see Annex H to **Chapter 2**).

43.6.2 If we cannot accept that the person became a British subject on 1 January 1983 because he or she:

- was not, on 31 December 1982, a British subject under **s.2, 13 or 16 of the 1948 Act**; or
- was not, on 31 December 1982, a British subject under **s.1 of the 1965 Act**; or
- has since acquired some other nationality or citizenship,

we should explain this and, if appropriate, advise how that person may become a British citizen.

43.6.3 A person who meets the requirements of 43.2.8.a-d above (but not 43.2.8.e) may be able to make a claim to remain a British subject under **s.31(3)**, and should be advised accordingly (see **Chapter 46**).