Part IV: British subjects

Chapter 46: Claims to remain a British subject by certain Irish nationals

section 31(3) British Nationality Act 1981

46.1 **Introduction**

46.1.1 This Chapter deals only with claims to remain a British subject made by certain Irish nationals on or after 1 January 1983.

46.1.2 The status of such nationals who made similar claims under **s.2** of the **British Nationality Act 1948** is dealt with in **Chapter 43**.

46.2 **The Law**

46.2.1 A person is a British subject under **s.31(3)** if he or she:

- was born before 1 January 1949; and
- was a British subject on 31 December 1948 (see Annex A); and
- was a citizen of Eire on 31 December 1948; and
- did not made a claim to remain a British subject under **s.2** of the **British Nationality Act 1948** (see **Chapter 43**); and
- is a citizen of the Republic of Ireland; and
- gives notice in writing claiming to remain a British subject on either or both of the following grounds:

  i. that he or she is, or has been, in Crown service under the Government of the United Kingdom; and/or

ii. that he or she has associations by way of descent, residence or otherwise with the United Kingdom or with a British overseas territory.

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

46.2.3 British subject status is not transmissible, and the question of whether a person is such a subject by descent or otherwise does not arise.

46.3 Claim form

46.3.1 Notice in writing claiming to remain a British subject is normally given on Form E.

46.4 Enquiries

46.4.1 Where it appears that a person may be able to make a claim to remain a British subject under **s.31(3)**, a blank Form E should be sent to the potential claimant with a covering letter.

46.5 Consideration of claims

46.5.1 Claims to remain a British subject under **s.31(3)** are dealt with in INPD(L) General Enquiries Section.

46.5.2 Form E is a printed card, the bottom half of which is detachable in order to be retained as the Home Office record of the claim. Forms E are not registered to personal files. On receipt, they go direct to INPD(L) General Enquiries Section who:

- check the form has been properly completed and that the person concerned is eligible by reason of age (see 46.5.3 below)

- complete the section marked "For official use" by entering the current date and ticking box (a) and/or (b) to correspond with that ticked by the claimant on the top half

- prepare and despatch an acknowledgement (if this is to be sent via a solicitor or agent or other third party, it is sent under cover of the appropriate stock letter)

- detach the bottom half of the Form E and file it in a card index

46.5.3 It should be noted that the acknowledgement is conditional on the claimant having satisfied the requirements set out at 46.2.1 above. No evidence is requested: the claimant's statements are taken at face value. Neither the acceptance of a Form E or the acknowledgement, therefore, constitute conclusive proof that the person concerned is a British subject under **s.31(3)**.