

PART I: BRITISH CITIZENSHIP

CHAPTER 7: REGISTRATION BY ENTITLEMENT OF CERTAIN PEOPLE BORN BEFORE 1983 TO WOMEN WHO WERE BRITISH SUBJECTS OR CITIZENS OF THE UNITED KINGDOM AND COLONIES

SECTION 4C BRITISH NATIONALITY ACT 1981, as amended by section 45 of the Borders, Citizenship and Immigration Act 2009

7.1 The Law

7.1.1 Persons are entitled to registration under **s.4C** of the British Nationality Act 1981 if:

- they were born before 1 January 1983; and
- they would either
 - a. at some time before 1 January 1983 have become citizens of the United Kingdom and Colonies under one of the following provisions, if that section had provided for citizenship by descent from a mother in the same terms as it provided for citizenship by descent from a father
 - section 5 or schedule 3, paragraph 3 of the British Nationality Act 1948 or
 - b. at some time before 1 January 1983 have become citizens of the United Kingdom and Colonies under one of the following provisions, if that section had provided for citizenship by descent from a mother in the same terms as it provided for citizenship by descent from a father, and women had been

able to transmit British subject status in the same way as men before 1/1/1949

- section 12(2), 12(3), 12(4) or 12(5), of the British Nationality Act 1948.

and

- had they become citizens of the United Kingdom and Colonies as described above, they would, immediately before 1 January 1983, have had the right of abode in the United Kingdom by virtue of **s.2** of the **Immigration Act 1971** as then in force (see "**RIGHT OF ABODE**" in Volume 2); and
- the Secretary of State is satisfied that they are of good character (applications made on or after 4 December 2006) (see Chapter 18, Annexes D and H).

7.1.2 A person who *could* have been registered had women been able to transmit citizenship at the relevant time (e.g. consular birth registration or registration under section 12(6) of the 1948 Act), but who was *not* in fact registered does not have an entitlement to registration under section 4C.

7.1.3 For the purposes of registration under section 4C a woman is regarded as having been a CUKC *by descent* if she acquired that status by virtue of:

- (a) section 12(2), (4) or (6) only of the 1948 Act,
- (b) section 13(2) of that Act,
- (c) paragraph 3 of Schedule 3 to that Act, or
- (d) section 1(1)(a) or (c) of the British Nationality (No. 2) Act 1964.

7.1.4 Registration under **s.4C** gives British citizenship by descent. (See **Chapter 20**)

7.2 Application forms

7.2.1 An application should normally be made on Form UKM.

7.3 **Evidence to be supplied**

7.3.1 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.

7.3.2 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 any tribunal or court in the United Kingdom, 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.

NB. For the purposes of determining whether (had British nationality law prior to 1983 allowed women to pass on citizenship on the same terms as men) an applicant would have been a CUKC or would have had the right of abode, it is irrelevant whether or not the applicant was born legitimate.

7.3.3 Applications should be supported by evidence of:

- the applicant's date of birth, i.e. birth certificate;

AND

- the mother's British subject status/citizenship of the United Kingdom and Colonies at the time of the applicant's birth:
 - i. a birth certificate showing the mother's birth in the United Kingdom and Colonies; or
 - ii. a passport describing the mother as a citizen of the United Kingdom and Colonies at that time; or
 - iii. a certificate confirming the mother's earlier naturalisation or registration as a citizen of the United Kingdom and Colonies; or
 - iv. an adoption certificate showing the mother's legal adoption in the United Kingdom or Islands, together with such further evidence as may be needed to establish her acquisition of citizenship of the United Kingdom and Colonies by that means (see "**ADOPTION**" in Volume 2 for an explanation of the nationality effects of adoption orders prior to 1983); or
 - v. a passport or certificate of naturalisation showing that the mother was a British subject before 1949, together (where relevant) with such further evidence as may be required to establish acquisition of citizenship of the United Kingdom and Colonies at commencement of the **BNA 1948** (see Annex D to **Chapter 2**)

AND, if the mother was a CUKC by descent, evidence of the claim to citizenship of the United Kingdom and Colonies which the applicant would have had under **s.5(1)(a)-(d)** of the **BNA 1948** - i.e.:

- i. evidence of the applicant's or his mother's place of birth (**s.5(1)(a)** or **(d)**); or
- ii. the applicant's consular birth certificate (**s.5(1)(b)**); or
- iii. evidence of his mother's Crown service (**s.5(1)(c)**)

AND

- evidence of the claim to the right of abode in the United Kingdom which the applicant would have had, immediately before 1.1.83, had s/he been a citizen of the United Kingdom and Colonies at that time:
 - i. where the claim would have been based on the applicant's **mother's** birth, legal adoption, naturalisation or registration in the United Kingdom or Islands (**s.2(1)(b)(i)**):
 - the applicant's birth certificate showing parents' details or adoption certificate; and
 - the mother's birth certificate showing her parents' details, adoption certificate, or naturalisation or registration certificate
 - ii. where the claim would have been based on the applicant's **grandparent's** birth, legal adoption, naturalisation or registration in the United Kingdom or Islands (**s.2(1)(b)(ii)**):
 - the applicant's birth certificate showing parents' details or adoption certificate; and

- the relevant parent's birth certificate showing his or her parents' details or adoption certificate; and
 - the relevant grandparent's birth certificate showing his or her parents' details, adoption, naturalisation or registration certificate; and
 - (if the claim would have been through the father or a grandfather) the appropriate marriage certificate(s)
- iii. where the claim would have been based on the **applicant's** residence and settlement in the United Kingdom (**s.2(1)(c)**):
- evidence of the applicant's ordinary residence/settled status (e.g. passports, P60s, details of National Insurance contributions, benefit claims, employers' letters)
- iv. where, in the case of a female applicant, the claim would have been based on the **applicant's** marriage before 1983 to a man with the right of abode (**s.2(2)**):
- the marriage certificate; and
 - evidence of the husband's right of abode, e.g. British citizen passport or United Kingdom birth certificate

7.4 **Checking the application**

7.4.1 **Checking for automatic claims**

7.4.1.1 There is always the possibility that an applicant for registration may already be a British citizen.

7.4.1.2 If there is nothing in the papers to suggest that the applicant is already a British citizen, we need not investigate this possibility. Equally, we need not ask for proof that he did not acquire British citizenship automatically before we consider an application.

7.4.1.3 If the applicant has an automatic claim to British citizenship, we should:

- write to say so; and
- explain that registration is not necessary (using the procedure in **Chapter 3.6**); and
- refund in full any fee submitted with the application (see **Chapter 6**)

7.4.2 Checking for an alternative entitlement

7.4.2.1 Whether or not an entitlement to registration under **s.4C** exists, caseworkers should consider whether the applicant has an entitlement under section 4(2), 5, 10(1), 13(1), or paragraph 5 of Schedule 2.

7.4.2.2 If an applicant has a **s.4C** entitlement **and** has one of the above entitlements, the application should be considered under the alternative provision first if it gives British citizenship otherwise than by descent.

7.4.3 Checking for eligibility for naturalisation

7.4.3.1 Applicants who appear to be equally eligible for registration under **s.4C** and for naturalisation under **s.6(1)** or **s.6(2)** should normally have the advantage of naturalisation explained to them, i.e. that naturalisation would give them British citizenship otherwise than by descent, and asked whether they would prefer to have their application dealt with on this basis. If the applicant chooses to have the application dealt with as one for naturalisation but is subsequently found ineligible or unsuitable for naturalisation, we should proceed to consider whether an entitlement under **s.4C** exists.

7.5 Oath and pledge

7.5.1 If the application is made on or after 1 January 2004, the applicant will, before registration, have to attend a citizenship ceremony and make an appropriate oath of allegiance and pledge. (See Chapter 6)