

UK response to Letter from SR Contemporary Racism

Citizenship is granted on an equal basis

The acquisition of British citizenship is governed by the British Nationality Act 1981.

Naturalisation is the principal means by which adults may acquire British citizenship under the British Nationality Act 1981. That Act reflects the principle that citizenship should be acquired on the basis of a close and continuing connection with the UK. We expect those applying to naturalise as British citizens to demonstrate a commitment to the United Kingdom and they must:

- meet residence requirements based on a period of lawful residence in the United Kingdom (three years for spouses and civil partners of British citizens, and five years for others), including being settled, and without excess absences
- have sufficient knowledge of English, Welsh or Scottish Gaelic
- have sufficient knowledge of life in the United Kingdom
- be of good character.

In addition, those who are not married to or the civil partner of a British citizen must intend to continue to live in the United Kingdom, or to continue in relevant service overseas, and be settled in the United Kingdom for at least 12 months before applying.

The requirements for naturalisation apply equally to all adult applicants, irrespective of race, colour, descent or national and ethnic origin.

Gender Equality

There is no gender discrimination in the current nationality legislation: women are able to pass on citizenship in the same way as men, and both men and women are able to naturalise on the basis of their marriage to or civil partnership with a British citizen. We have also taken steps to address historical anomalies where this was not always the case.

Retaining Ties

In addition to the general provisions referred to above, British nationality law also has additional provisions for those who already have a connection with the UK, such as those who already hold another form of British nationality; were born in the UK; or have British parents.

Under the Immigration Rules we also make provision for those with UK Ancestry – defined as a commonwealth citizen with at least one grandparent born in the UK – to be able to come to the UK to take up employment and ultimately settle in the UK. Once settled, such individuals are then able to progress to naturalisation should they desire.

Provisions to reduce statelessness

There are several provisions in British Nationality Law which provide for the acquisition of citizenship by a stateless person. These enable us to meet our obligations under the 1961 Convention on the Reduction of Statelessness.

1. Children born in the United Kingdom

It was accepted that under the provisions of the British Nationality Act 1981 there could be children born here who held neither the nationality of their parents or the UK. Within the legislation the government therefore included provisions by which children born here could register for British nationality.

Sections 1(3) and 1(4) provide registration provisions for any child born here who was not British at birth and where either their parent becomes British or settled; or they live in the UK for the first ten years of their life.

Schedule 2, Para 3 provides for the registration of a stateless person born in the UK who is under the age of 22 and has lived in the UK for a continuous period of five years. The residence period of five years ensures that an entitlement to citizenship was not available to someone with no ties with the UK other than the fact of their birth here. It also ensures that those who benefit from this provision have a real link with this country through a substantial period of residence here.

The requirement is in accordance with that prescribed under Article 1 of the UN Convention on the Reduction of Statelessness, and in fact was more generous as the Convention allowed states to impose a 10 year residence requirement.

This ties in with the government's aim that those who acquire citizenship, and therefore right of abode, should have a real association with this country, and residence is an important element in this.

2. Children born outside the United Kingdom

If a child is and has always been stateless, an application for registration can be made on the basis of 3 years' residence in the UK (or an overseas territory) if their parent is a British citizen, British Overseas Territories citizen, British Overseas citizen or British subject. The child would get the same nationality as the parent. (Schedule 2, para 4)

If a child is born abroad to a British citizen by descent parent, an application can be made for their registration whilst under the age of 18. Normally the parent is required to have lived in the UK for 3 years at some point before the birth, but this is not required if the child is stateless. (Section 3(2))

A stateless child could also apply for British citizenship under section 3(5) or 3(1) in the same way as a child who had a nationality.

3. People born stateless before 1/1/83

A person who was born stateless before the British Nationality Act 81 came into force, and has remained stateless, is entitled to registration if:

- i. their mother was a citizen of the United Kingdom and Colonies at the time of the person's birth; or
- ii. the person was born in a place which is, at the date of application, within the United Kingdom or a British Overseas Territory; or
- iii. they would have the requirements of parentage, or residence and parentage, set out in the British Nationality (No 2) Act 1964.

Deprivation of nationality

The Home Secretary may deprive a person of their British citizenship where citizenship has been fraudulently obtained or where deprivation would be conducive to the public good on the grounds of national security, war crimes, serious and organised crime or unacceptable behaviours, such as glorification of terrorism.

Legislation on deprivation was carefully drafted in accordance with our international obligations. When the UK ratified the 1961 United Nations Convention on the Reduction of Statelessness, it made a declaration retaining the right to deprive naturalised persons of their British nationality on conducive grounds, even if this would make the person stateless. This power may be used where the person has conducted themselves in a manner seriously prejudicial to the vital interests of the United Kingdom and the Home Secretary has reasonable grounds to believe that the person could, under the laws of another country or territory, become a national of that country or territory.

The Government recognises that the power to deprive someone of their nationality must be exercised in a careful and considered manner. Accordingly, any decision to deprive is only taken after extensive research. Anyone deprived of their nationality has a full statutory right of appeal against the decision before an independent tribunal.

Immigration Control

The requirements for people to enter and/or remain in the UK are set out in the Immigration Rules, which are laid before Parliament, and subject to approval by it, in accordance with the requirements of the Immigration Act 1971. With a few exceptions (see below), the evidentiary requirements which an individual must demonstrate are exactly the same for all non-EEA nationals requiring leave to be in the UK lawfully.

The UK does operate a visa system – by which designated nationalities may require a visa before travelling to the UK – but this is a procedural step rather than any

different treatment with regards to the actual requirements which need to be satisfied in order to qualify for entry. The Immigration Rules operate in the same way when considering a visa application as they do when considering an application for entry at a port.

Exceptions

1. The UK currently operates 61 Government Authorised Exchange schemes, each supported by a designated Government Department, which allow non-EEA nationals to enter the UK for a temporary period in order to carry out research, training, work experience and cultural exchange. The current arrangements include schemes covering areas such as medicine, dentistry, teaching, engineering, and government and public policy. On the whole these schemes are open to all nationals, but they do also allow for specific needs to be addressed on a more nationality-specific basis. Countries which have schemes exclusively for their nationals include Serbia; the Commonwealth countries; West Indies; China; South Korea; Kazakhstan; USA; Saudi Arabia; Japan; and the region of Patagonia.
2. The UK also runs a number of Youth Mobility Schemes, allowing persons aged 18-30 to enter the UK for up to two years and to work and/or study here if they wish to do so, before returning home. The number of participants are capped, and are based on reciprocal arrangements for British citizens in the other country. There are currently 8 such schemes in operation, available to nationals from Australia; New Zealand; Canada; Japan; Monaco; Taiwan; South Korea; and Hong Kong.