



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 1

#### NATIONALITY

##### *British overseas territories citizenship*

#### **1 Historical inability of mothers to transmit citizenship**

- (1) Part 2 of the British Nationality Act 1981 (British overseas territories citizenship) is amended as follows.
- (2) After section 17, insert—

##### **“17A Registration: remedying inability of mothers to transmit citizenship**

- (1) On an application for registration under this section, a person (“P”) is entitled to be registered as a British overseas territories citizen if the following three conditions are met.
- (2) The first condition is that—
  - (a) P would have become a citizen of the United Kingdom and Colonies under any of the following provisions of the British Nationality Act 1948—
    - (i) section 5 (person born on or after 1 January 1949: citizenship by descent);
    - (ii) section 12(2) (person born before 1 January 1949: citizenship by descent);
    - (iii) section 12(3) (person born before 1 January 1949 in British protectorate etc);
    - (iv) section 12(4) (person born before January 1949 not becoming citizen of other country);

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*Status: This is the original version (as it was originally enacted).*

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(v) section 12(5) (woman married before 1 January 1949 to a man who became or would have become a citizen of the United Kingdom and Colonies);

(vi) paragraph 3 of Schedule 3 (person born on or after 1 January 1949 to a British subject without citizenship);

had P's parents been treated equally, by that Act or by any relevant previous provision, for the purposes of determining P's nationality status; or

(b) P would have been a citizen of the United Kingdom and Colonies immediately before commencement had P's parents been treated equally, for the purposes of determining P's nationality status, by any independence legislation that caused P to lose that citizenship.

(3) In subsection (2)—

“relevant previous provision” means a provision of the law that was in force at some time before 1 January 1949 which provided for a nationality status to be transmitted from a parent to a child without the need for an application to be made for the child to be registered as a person with that nationality status;

“independence legislation” means an Act of Parliament or any subordinate legislation (within the meaning of the Interpretation Act 1978) forming part of the law in the United Kingdom (whenever passed or made, and whether or not still in force)—

(a) providing for a country or territory to become independent from the United Kingdom, or

(b) dealing with nationality, or any other ancillary matters, in connection with a country or territory becoming independent from the United Kingdom.

(4) In determining for the purposes of subsection (2) whether a person would have become a citizen of the United Kingdom and Colonies under section 5 of the British Nationality Act 1948, the requirement that a person's birth was registered at a United Kingdom consulate, as set out in subsection (1)(b) of that section, is to be ignored.

(5) The second condition is that, if P had become or been a citizen of the United Kingdom and Colonies as mentioned in subsection (2), P would at commencement have become a British Dependent Territories citizen under section 23(1)(b) or (c).

(6) The third condition is that, if P had become a British Dependent Territories citizen as mentioned in subsection (5), P would have become a British overseas territories citizen on the commencement of section 2 of the British Overseas Territories Act 2002.”

(3) In section 25 (meaning of British overseas territories citizen “by descent”), in subsection (1), after paragraph (c) insert—

“(ca) the person is a British overseas territories citizen by virtue of registration under section 17A; or”.