



British Nationality Act 1981

1981 CHAPTER 61

PART V

MISCELLANEOUS AND SUPPLEMENTARY

36 Provisions for reducing statelessness

The provisions of Schedule 2 shall have effect for the purpose of reducing statelessness.

37 Commonwealth citizenship

- (1) Every person who—
 - (a) under this Act is a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British subject; or
 - (b) under any enactment for the time being in force in any country mentioned in Schedule 3 is a citizen of that country,shall have the status of a Commonwealth citizen.
- (2) Her Majesty may by Order in Council amend Schedule 3 by the alteration of any entry, the removal of any entry, or the insertion of any additional entry.
- (3) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) After commencement no person shall have the status of a Commonwealth citizen or the status of a British subject otherwise than under this Act.

38 British protected persons

- (1) Her Majesty may by Order in Council made in relation to any territory which was at any time before commencement—
 - (a) a protectorate or protected state for the purposes of the 1948 Act; or
 - (b) a United Kingdom trust territory within the meaning of that Act,

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declare to be British protected persons for the purposes of this Act any class of persons who are connected with that territory and are not citizens of any country mentioned in Schedule 3 which consists of or includes that territory.

- (2) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

39 Amendment of Immigration Act 1971

- (1) The Immigration Act 1971 shall be amended in accordance with the following provisions of this section.
- (2) For section 2 (statement of right of abode) there shall be substituted—

“2 Statement of right of abode in United Kingdom.

- (1) A person is under this Act to have the right of abode in the United Kingdom if—
- (a) he is a British citizen ; or
 - (b) he is a Commonwealth citizen who—
 - (i) immediately before the commencement of the British Nationality Act 1981 was a Commonwealth citizen having the right of abode in the United Kingdom by virtue of section 2(1)(d) or section 2(2) of this Act as then in force; and
 - (ii) has not ceased to be a Commonwealth citizen in the meanwhile.
- (2) In relation to Commonwealth citizens who have the right of abode in the United Kingdom by virtue of subsection (1)(b) above, this Act, except this section and sections 3(9) and (9A), 5(2) and 13(3), shall apply as if they were British citizens; and in this Act (except as aforesaid) "British citizen " shall be construed accordingly.”.
- (3) For section 3(9) (certificates of patriality) there shall be substituted—
- “(9) A person within this subsection seeking to enter the United Kingdom and claiming to have the right of abode there shall prove that he has that right by means of such certificate of entitlement as may be specified in the immigration rules, unless—
- (a) he claims to be a British citizen and produces (or is present when there is produced) a United Kingdom passport describing him as such a citizen or a United Kingdom passport describing him as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom; or
 - (b) in the case of a woman falling within subsection (9A)(b) below who claims to be a British citizen as there mentioned by virtue of section 2(2) of this Act as in force immediately before the commencement of the British Nationality Act 1981, she shows that immediately before that commencement she—
 - (i) was a citizen of the United Kingdom and Colonies; and
 - (ii) had the right of abode in the United Kingdom by virtue of section 2(2) of this Act, as then in force, apart from any reference therein to section 2(1)(c) or (d) as then in force.

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- (9A) A person is within subsection (9) above if—
- (a) he is not a British citizen ; or
 - (b) he claims to be a British citizen by virtue of section 11(1) of the British Nationality Act 1981 on the ground that immediately before the commencement of that Act he had the right of abode in the United Kingdom by virtue of section 2(1)(c) or section 2(2) of this Act, as then in force.”.
- (4) In section 8 (exceptions for special cases), after subsection (5) there shall be inserted—
- “(5A) An order under subsection (2) above may, as regards any person or class of persons to whom it applies, provide for that person or class to be in specified circumstances regarded (notwithstanding the order) as settled in the United Kingdom for the purposes of section 1(1) of the British Nationality Act 1981.”.
- (5) For so much of section 13(3) as precedes the words " and a person " (restriction of right of appeal against decision that leave to enter the United Kingdom is required) there shall be substituted—
- “(3) A person within section 3(9) above who does not hold a certificate of entitlement shall not be entitled to appeal on the ground that he has the right of abode in the United Kingdom against a decision that he requires leave to enter the United Kingdom unless—
- (a) he claims to be a British citizen and produces (or is present when there is produced) a United Kingdom passport describing him as such a citizen or a United Kingdom passport describing him as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom ; or
 - (b) in the case of such a woman as is mentioned in paragraph (b) of section 3(9) above, she shows that immediately before the commencement of the British Nationality Act 1981 she satisfied the conditions specified in sub-paragraphs (i) and (ii) of that paragraph;”.
- (6) Schedule 4 (which contains further amendments of the Immigration Act 1971) shall have effect.
- (7) In section 90 of the Mental Health Act 1959 and section 82 of the Mental Health (Scotland) Act 1960 (removal of non-patrial in-patients to places outside the United Kingdom), for the words from " any patient " to " 1971 and " (which were substituted for " any person being an alien " by section 30(1) of the Immigration Act 1971) there shall be substituted " any patient who is neither a British citizen nor a Commonwealth citizen having the right of abode in the United Kingdom by virtue of section 2(1)(b) of the Immigration Act 1971, being a patient ".
- (8) A certificate of patriality issued under the Immigration Act 1971 and in force immediately before commencement shall have effect after commencement as if it were a certificate of entitlement issued under that Act as amended by this section, unless at commencement the holder ceases to have the right of abode in the United Kingdom.

40 Deprivation of citizenship

- (1) Subject to the provisions of this section, the Secretary of State may by order deprive any British citizen to whom this subsection applies of his British citizenship if the

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Secretary of State is satisfied that the registration or certificate of naturalisation by virtue of which he is such a citizen was obtained by means of fraud, false representation or the concealment of any material fact.

- (2) Subsection (1) applies to any British citizen who—
 - (a) became a British citizen after commencement by virtue of—
 - (i) his registration as a British citizen under any provision of this Act; or
 - (ii) a certificate of naturalisation granted to him under section 6 ; or
 - (b) being immediately before commencement a citizen of the United Kingdom and Colonies by virtue of registration as such a citizen under any provision of the British Nationality Acts 1948 to 1964, became at commencement a British citizen ; or
 - (c) at any time before commencement became a British subject (within the meaning of that expression at that time), or a citizen of Eire or of the Republic of Ireland, by virtue of a certificate of naturalisation granted to him or in which his name was included.
- (3) Subject to the provisions of this section, the Secretary of State may by order deprive any British citizen to whom this subsection applies of his British citizenship if the Secretary of State is satisfied that that citizen—
 - (a) has shown himself by act or speech to be disloyal or disaffected towards Her Majesty ; or
 - (b) has, during any war in which Her Majesty was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war ; or
 - (c) has, within the period of five years from the relevant date, been sentenced in any country to imprisonment for a term of not less than twelve months.
- (4) Subsection (3) applies to any British citizen who falls within paragraph (a) or (c) of subsection (2); and in subsection (3) " the relevant date ", in relation to a British citizen to whom subsection (3) applies, means the date of the registration by virtue of which he is such a citizen or, as the case may be, the date of the grant of the certificate of naturalisation by virtue of which he is such a citizen.
- (5) The Secretary of State—
 - (a) shall not deprive a person of British citizenship under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a British citizen ; and
 - (b) shall not deprive a person of British citizenship under subsection (3) on the ground mentioned in paragraph (c) of that subsection if it appears to him that that person would thereupon become stateless.
- (6) Before making an order under this section the Secretary of State shall give the person against whom the order is proposed to be made notice in writing informing him of the ground or grounds on which it is proposed to be made and of his right to an inquiry under this section.
- (7) If the person against whom the order is proposed to be made applies in the prescribed manner for an inquiry, the Secretary of State shall, and in any other case the Secretary of State may, refer the case to a committee of inquiry consisting of a chairman, being a person possessing judicial experience, appointed by the Secretary of State and of such other members appointed by the Secretary of State as he thinks proper.

- (8) The Secretary of State may make rules for the practice and procedure to be followed in connection with references under subsection (7) to a committee of inquiry; and such rules may, in particular, provide for conferring on any such committee any powers, rights or privileges of any court, and for enabling any powers so conferred to be exercised by one or more members of the committee.
- (9) The power of the Secretary of State to make rules under subsection (8) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The preceding provisions of this section shall apply in relation to British Dependent Territories citizens and British Dependent Territories citizenship as they apply in relation to British citizens and British citizenship, but as if in subsection (2)(a)(ii) the reference to section 6 were a reference to section 18.

41 Regulations and Orders in Council

- (1) The Secretary of State may by regulations make provision generally for carrying into effect the purposes of this Act, and in particular provision—
 - (a) for prescribing anything which under this Act is to be prescribed;
 - (b) for prescribing the manner in which, and the persons to and by whom, applications for registration or naturalisation under any provision of this Act may or must be made;
 - (c) for the registration of anything required or authorised by or under this Act to be registered ;
 - (d) for the administration and taking of oaths of allegiance under this Act, as to the time within which oaths of allegiance must be taken, and for the registration of oaths of allegiance;
 - (e) for the giving of any notice required or authorised to be given to any person under this Act;
 - (f) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Act, and for requiring such certificates to be delivered up for those purposes;
 - (g) for the births and deaths of persons of any class or description born or dying in a country mentioned in Schedule 3 to be registered there by the High Commissioner for Her Majesty's government in the United Kingdom or by members of his official staff;
 - (h) for the births and deaths of persons of any class or description born or dying in a foreign country to be registered there by consular officers or other officers in the service of Her Majesty's government in the United Kingdom;
 - (i) for enabling the births and deaths of British citizens, British Dependent Territories citizens, British Overseas citizens, British subjects and British protected persons born or dying in any country in which Her Majesty's government in the United Kingdom has for the time being no diplomatic or consular representatives to be registered—
 - (i) by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with Her Majesty's government in the United Kingdom, has undertaken to represent that government's interest in that country, or
 - (ii) by a person authorised in that behalf by the Secretary of State.

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- (2) The Secretary of State may with the consent of the Treasury by regulations make provision for the imposition, recovery and application of fees in connection with any of the following matters, namely—
- (a) any application made to the Secretary of State under this Act;
 - (b) the effecting in the United Kingdom of any registration authorised by or under this Act;
 - (c) the making in the United Kingdom of any declaration, the grant there of any certificate, or the taking there of any oath of allegiance authorised to be made, granted or taken by or under this Act;
 - (d) the supplying in the United Kingdom of a certified or other copy of any notice, certificate, order, declaration or entry given, granted or made under or by virtue of this Act or any of the former nationality Acts;
 - (e) the carrying out of searches in or of any registers or other records, being registers or records held in the United Kingdom by or on behalf of the Secretary of State, which are or may be relevant for the purpose of determining the status of any person under this Act or any of the former nationality Acts ;
 - (f) the supplying by or on behalf of the Secretary of State of an opinion in writing concerning the status of any person under this Act or any of the former nationality Acts, or a certified or other copy of such an opinion.
- (3) Regulations under subsection (1) or (2) may make different provision for different circumstances ; and—
- (a) regulations under subsection (1) may provide for the extension of any time-limit for the taking of oaths of allegiance; and
 - (b) regulations under subsection (2) may provide for any fees imposed by the regulations to be payable at such times as may be prescribed.
- (4) Her Majesty may by Order in Council provide for any Act or Northern Ireland legislation to which this subsection applies to apply, with such adaptations and modifications as appear to Her necessary, to births and deaths registered—
- (a) in accordance with regulations made in pursuance of subsection (1)(g) to (i) of this section or subsection (1)(f) and (g) of section 29 of the 1948 Act; or
 - (b) at a consulate of Her Majesty in accordance with regulations made under the British Nationality and Status of Aliens Acts 1914 to 1943 or in accordance with instructions of the Secretary of State; or
 - (c) by a High Commissioner for Her Majesty's government in the United Kingdom or members of his official staff in accordance with instructions of the Secretary of State;
- and an Order in Council under this subsection may exclude, in relation to births and deaths so registered, any of the provisions of section 45.
- (5) Subsection (4) applies to—
- (a) the Births and Deaths Registration Act 1953, the Registration Service Act 1953 and the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and
 - (b) so much of any Northern Ireland legislation for the time being in force (whether passed or made before or after commencement) as relates to the registration of births and deaths.
- (6) The power to make regulations under subsection (1) or (2) shall be exercisable by statutory instrument.

- (7) Any regulations or Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

42 Registration and naturalisation: general provisions

- (1) Subject to subsection (2)—
- (a) a person shall not be registered under any provision of this Act as a citizen of any description or as a British subject; and
 - (b) a certificate of naturalisation shall not be granted to a person under any provision of this Act,
- unless—
- (i) any fee payable by virtue of this Act in connection with the registration or, as the case may be, the grant of the certificate has been paid ; and
 - (ii) the person concerned has within the prescribed time taken an oath of allegiance in the form indicated in Schedule 5.
- (2) So much of subsection (1) as requires the taking of an oath of allegiance shall not apply to a person who—
- (a) is not of full age ; or
 - (b) is already a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, or a citizen of any country of which Her Majesty is Queen.
- (3) Any provision of this Act which provides for a person to be entitled to registration as a citizen of any description or as a British subject shall have effect subject to the preceding provisions of this section.
- (4) A person registered under any provision of this Act as a British citizen, or as a British Dependent Territories citizen or as a British Overseas citizen, or as a British subject, shall be a citizen of that description or, as the case may be, a British subject as from the date on which he is so registered.
- (5) A person to whom a certificate of naturalisation as a British citizen or as a British Dependent Territories citizen is granted under any provision of this Act shall be a citizen of that description as from the date on which the certificate is granted.

43 Exercise of functions of Secretary of State by Governors and others

- (1) Subject to subsection (3), the Secretary of State may, in the case of any of his functions under this Act with respect to any of the matters mentioned in subsection (2), make arrangements for that function to be exercised—
- (a) in any of the Islands, by the Lieutenant-Governor in cases concerning British citizens or British citizenship;
 - (b) in any dependent territory which is for the time being a colony, by the Governor in cases concerning British Dependent Territories citizens or British Dependent Territories citizenship.
- (2) The said matters are—
- (a) registration and naturalisation ; and
 - (b) renunciation, resumption and deprivation of British citizenship or British Dependent Territories citizenship.

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- (3) Nothing in this section applies in the case of any power to make regulations or rules conferred on the Secretary of State by this Act.
- (4) Arrangements under subsection (1) may provide for any such function as is there mentioned to be exercisable only with the approval of the Secretary of State.

44 Decisions involving exercise of discretion

- (1) Any discretion vested by or under this Act in the Secretary of State, a Governor or a Lieutenant-Governor shall be exercised without regard to the race, colour or religion of any person who may be affected by its exercise.
- (2) The Secretary of State, a Governor or a Lieutenant-Governor, as the case may be, shall not be required to assign any reason for the grant or refusal of any application under this Act the decision on which is at his discretion ; and the decision of the Secretary of State or a Governor or Lieutenant-Governor on any such application shall not be subject to appeal to, or review in, any court.
- (3) Nothing in this section affects the jurisdiction of any court to entertain proceedings of any description concerning the rights of any person under any provision of this Act.

45 Evidence

- (1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register, or a subscription of an oath of allegiance, given, granted or made under this Act or any of the former nationality Acts shall be received in evidence and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.
- (2) Prima facie evidence of any such document may be given by the production of a document purporting to be certified as a true copy of it by such person and in such manner as may be prescribed.
- (3) Any entry in a register made under this Act or any of the former nationality Acts shall be received as evidence (and in Scotland as sufficient evidence) of the matters stated in the entry.
- (4) A certificate given by or on behalf of the Secretary of State that a person was at any time in Crown service under the government of the United Kingdom or that a person's recruitment for such service took place in the United Kingdom shall, for the purposes of this Act, be conclusive evidence of that fact.

46 Offences and proceedings

- (1) Any person who for the purpose of procuring anything to be done or not to be done under this Act—
 - (a) makes any statement which he knows to be false in a material particular; or
 - (b) recklessly makes any statement which is false in a material particular,shall be liable on summary conviction in the United Kingdom to imprisonment for a term not exceeding three months or to a fine not exceeding £1000, or both.

- (2) Any person who without reasonable excuse fails to comply with any requirement imposed on him by regulations made under this Act with respect to the delivering up of certificates of naturalisation shall be liable on summary conviction in the United Kingdom to a fine not exceeding £500.
- (3) In the case of an offence under subsection (1)—
- (a) any information relating to the offence may in England and Wales be tried by a magistrates' court if it is laid within six months after the commission of the offence, or if it is laid within three years after the commission of the offence and not more than two months after the date certified by a chief officer of police to be the date on which evidence sufficient to justify proceedings came to the notice of an officer of his police force ; and
 - (b) summary proceedings for the offence may in Scotland be commenced within six months after the commission of the offence, or within three years after the commission of the offence and not more than two months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings came to his knowledge; and
 - (c) a complaint charging the commission of the offence may in Northern Ireland be heard and determined by a magistrates' court if it is made within six months after the commission of the offence, or if it is made within three years after the commission of the offence and not more than two months after the date certified by an officer of police not below the rank of assistant chief constable to be the date on which evidence sufficient to justify the proceedings came to the notice of the police in Northern Ireland.
- (4) For the purposes of subsection (3)(b) proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay; and a certificate of the Lord Advocate as to the date on which such evidence as is mentioned in subsection (3)(b) came to his knowledge shall be conclusive evidence.
- (5) For the purposes of the trial of a person for an offence under subsection (1) or (2), the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which he may be.
- (6) In their application to the Bailiwick of Jersey subsections (1) and (2) shall have effect with the omission of the words " on summary conviction " .

47 Legitimated children

- (1) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage, be treated for the purposes of this Act as if he had been born legitimate.
- (2) A person shall be deemed for the purposes of this section to have been legitimated by the subsequent marriage of his parents if by the law of the place in which his father was domiciled at the time of the marriage the marriage operated immediately or subsequently to legitimate him, and not otherwise.

48 Posthumous children

Any reference in this Act to the status or description of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of his

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father or mother, be construed as a reference to the status or description of the parent in question at the time of that parent's death; and where that death occurred before, and the birth occurs after, commencement, the status or description which would have been applicable to the father or mother had he or she died after commencement shall be deemed to be the status or description applicable to him or her at the time of his or her death.

49 Registration and naturalisation under British Nationality Acts 1948 to 1965

- (1) After the passing of this Act—
- (a) a person shall not be registered under any provision of the existing nationality Acts as a citizen of the United Kingdom and Colonies or a British subject; and
 - (b) a certificate of naturalisation shall not be granted to a person under any provision of those Acts,
- unless—
- (i) any fee payable by virtue of those Acts in connection with the registration or, as the case may be, the grant of the certificate has been paid ; and
 - (ii) where applicable, the person in question has taken the oath of allegiance which, but for this section, he would have been required by those Acts to take in connection with the registration or, as the case may be, the grant to him of the certificate.
- (2) Any provision of the existing nationality Acts which provides for a person to be entitled to registration as a citizen of the United Kingdom and Colonies or a British subject shall have effect subject to subsection (1).
- (3) A person registered after the passing of this Act under any provision of the existing nationality Acts as a citizen of the United Kingdom and Colonies or a British subject shall be such a citizen by registration or, as the case may be, a British subject by virtue of that provision as from the date on which he is so registered; and a person to whom a certificate of naturalisation is after the passing of this Act granted under any such provision shall be a citizen of the United Kingdom and Colonies by naturalisation as from the date on which the certificate is granted.
- (4) The following provisions of the existing nationality Acts, namely—
- (a) in the 1948 Act, section 9 and, in section 10(1), the words from " and the person " onwards ; and
 - (b) section 1(2) of the British Nationality Act 1965,
- shall not apply in relation to any application for registration or for a certificate of naturalisation under any provision of the existing nationality Acts, whenever made, unless the person to whom that application relates has been registered or, as the case may be, granted such a certificate before the passing of this Act.
- (5) In this section " the existing nationality Acts " means the British Nationality Acts 1948 to 1965.

50 Interpretation

- (1) In this Act, unless the context otherwise requires—
- " the 1948 Act " means the British Nationality Act 1948 ;
 - " alien " means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland ;

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- " association " means an unincorporated body of persons ;
- " British protected person " means a person who is a member of any class of persons declared to be British protected persons by an Order in Council for the time being in force under section 38 or is a British protected person by virtue of the Solomon Islands Act 1978;
- " commencement ", without more, means the commencement of this Act;
- " Commonwealth citizen " means a person who has the status of a Commonwealth citizen under this Act;
- " company " means a body corporate ; • " Crown service " means the service of the Crown, whether within Her Majesty's dominions or elsewhere;
- " Crown service under the government of the United Kingdom " means Crown service under Her Majesty's government in the United Kingdom or under Her Majesty's government in Northern Ireland ;
- " dependent territory " means a territory mentioned in Schedule 6;
- " enactment " includes an enactment comprised in Northern Ireland legislation;
- " foreign country " means a country other than the United Kingdom, a dependent territory, a country mentioned in Schedule 3 and the Republic of Ireland ;
- " the former nationality Acts " means—
- (a) the British Nationality Acts 1948 to 1965 ;
 - (b) the British Nationality and Status of Aliens Acts 1914 to 1943 ; and
 - (c) any Act repealed by the said Acts of 1914 to 1943 or by the Naturalization Act 1870 ;
- " Governor ", in relation to a dependent territory, includes the officer for the time being administering the government of that territory;
- " High Commissioner " includes an acting High Commissioner ;
- " immigration laws "—
- (a) in relation to the United Kingdom, means the Immigration Act 1971 and any law for purposes similar to that Act which is for the time being or has at any time been in force in any part of the United Kingdom;
 - (b) in relation to a dependent territory, means any law for purposes similar to the Immigration Act 1971 which is for the time being or has at any time been in force in that territory ;
- " the Islands " means the Channel Islands and the Isle of Man;
- " minor " means a person who has not attained the age of eighteen years;
- " prescribed " means prescribed by regulations made under section 41 ;
- " settled " shall be construed in accordance with subsections (2) to (4);
- " ship " includes a hovercraft;
- " statutory provision " means any enactment or any provision contained in—
- (a) subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978); or
 - (b) any instrument of a legislative character made under any Northern Ireland legislation;
- " the United Kingdom " means Great Britain, Northern Ireland and the Islands, taken together;

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" United Kingdom consulate " means the office of a consular officer of Her Majesty's government in the United Kingdom where a register of births is kept or, where there is no such office, such office as may be prescribed.

- (2) Subject to subsection (3), references in this Act to a person being settled in the United Kingdom or in a dependent territory are references to his being ordinarily resident in the United Kingdom or, as the case may be, in that territory without being subject under the immigration laws to any restriction on the period for which he may remain.
- (3) Subject to subsection (4), a person is not to be regarded for the purposes of this Act—
- (a) as having been settled in the United Kingdom at any time when he was entitled to an exemption under section 8(3) or (4)(b) or (c) of the Immigration Act 1971 or, unless the order under section 8(2) of that Act conferring the exemption in question provides otherwise, to an exemption under the said section 8(2), or to any corresponding exemption under the former immigration laws; or
 - (b) as having been settled in a dependent territory at any time when he was under the immigration laws entitled to any exemption corresponding to any such exemption as is mentioned in paragraph (a) (that paragraph being for the purposes of this paragraph read as if the words from " unless " to " otherwise " were omitted).
- (4) A person to whom a child is born in the United Kingdom after commencement is to be regarded for the purposes of section 1(1) as being settled in the United Kingdom at the time of the birth if—
- (a) he would fall to be so regarded but for his being at that time entitled to an exemption under section 8(3) of the Immigration Act 1971; and
 - (b) immediately before he became entitled to that exemption he was settled in the United Kingdom ; and
 - (c) he was ordinarily resident in the United Kingdom from the time when he became entitled to that exemption to the time of the birth ;
- but this subsection shall not apply if at the time of the birth the child's father or mother is a person on whom any immunity from jurisdiction is conferred by or under the Diplomatic Privileges Act 1964.
- (5) It is hereby declared that a person is not to be treated for the purpose of any provision of this Act as ordinarily resident in the United Kingdom or in a dependent territory at a time when he is in the United Kingdom or, as the case may be, in that territory in breach of the immigration laws.
- (6) For the purposes of this Act—
- (a) a person shall be taken to have been naturalised in the United Kingdom if, but only if, he is—
 - (i) a person to whom a certificate of naturalisation was granted under any of the former nationality Acts by the Secretary of State or, in any of the Islands, by the Lieutenant-Governor; or
 - (ii) a person who by virtue of section 27(2) of the British Nationality and Status of Aliens Act 1914 was deemed to be a person to whom a certificate of naturalisation was granted, if the certificate of naturalisation in which his name was included was granted by the Secretary of State; or
 - (iii) a person who by virtue of section 10(5) of the Naturalization Act 1870 was deemed to be a naturalised British subject by reason of his residence with his father or mother;

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- (b) a person shall be taken to have been naturalised in a dependent territory if, but only if, he is—
 - (i) a person to whom a certificate of naturalisation was granted under any of the former nationality Acts by the Governor of that territory or by a person for the time being specified in a direction given in relation to that territory under paragraph 4 of Schedule 3 to the West Indies Act 1967 or for the time being holding an office so specified ; or
 - (ii) a person who by virtue of the said section 27(2) was deemed to be a person to whom a certificate of naturalisation was granted, if the certificate of naturalisation in which his name was included was granted by the Governor of that territory; or
 - (iii) a person who by the law in force in that territory enjoyed the privileges of naturalisation within that territory only; and references in this Act to naturalisation in the United Kingdom or in a dependent territory shall be construed accordingly.
- (7) For the purposes of this Act a person born outside the United Kingdom aboard a ship or aircraft—
 - (a) shall be deemed to have been born in the United Kingdom if—
 - (i) at the time of the birth his father or mother was a British citizen ; or
 - (ii) he would, but for this subsection, have been born stateless,and (in either case) at the time of the birth the ship or aircraft was registered in the United Kingdom or was an unregistered ship or aircraft of the government of the United Kingdom; but
 - (b) subject to paragraph (a), is to be regarded as born outside the United Kingdom, whoever was the owner of the ship or aircraft at that time, and irrespective of whether or where it was then registered.

The preceding provisions of this subsection shall apply in relation to each dependent territory with the substitution for the references to the United Kingdom and to a British citizen of references to that territory and to a British Dependent Territories citizen respectively.

- (8) For the purposes of this Act an application under any provision thereof shall be taken to have been made at the time of its receipt by a person authorised to receive it on behalf of the person to whom it is made ; and references in this Act to the date of such an application are references to the date of its receipt by a person so authorised.
- (9) For the purposes of this Act—
 - (a) the relationship of mother and child shall be taken to exist between a woman and any child (legitimate or illegitimate) born to her; but
 - (b) subject to section 47, the relationship of father and child shall be taken to exist only between a man and any legitimate child born to him ;and the expressions " mother ", " father ", " parent ", " child " and " descended " shall be construed accordingly.
- (10) For the purposes of this Act—
 - (a) a period " from " or " to " a specified date includes that date; and
 - (b) any reference to a day on which a person was absent from the United Kingdom or from a dependent territory or from the dependent territories is a reference to a day for the whole of which he was so absent.

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- (11) For the purposes of this Act—
- (a) a person is of full age if he has attained the age of eighteen years, and of full capacity if he is not of unsound mind; and
 - (b) a person attains any particular age at the beginning of the relevant anniversary of the date of his birth.
- (12) References in this Act to any country mentioned in Schedule 3 include references to the dependencies of that country.
- (13) Her Majesty may by Order in Council subject to annulment in pursuance of a resolution of either House of Parliament amend Schedule 6 in any of the following circumstances, namely—
- (a) where the name of any territory mentioned in it is altered; or
 - (b) where any territory mentioned in it is divided into two or more territories.

51 Meaning of certain expressions relating to nationality in other Acts and instruments

- (1) Without prejudice to subsection (3)(c), in any enactment or instrument whatever passed or made before commencement " British subject" and " Commonwealth citizen" have the same meaning, that is—
- (a) in relation to any time before commencement—
 - (i) a person who under the 1948 Act was at that time a citizen of the United Kingdom and Colonies or who, under any enactment then in force in a country mentioned in section 1(3) of that Act as then in force, was at that time a citizen of that country; and
 - (ii) any other person who had at that time the status of a British subject under that Act or any other enactment then in force ;
 - (b) in relation to any time after commencement, a person who has the status of a Commonwealth citizen under this Act.
- (2) In any enactment or instrument whatever passed or made after commencement—
- " British subject" means a person who has the status of a British subject under this Act;
 - " Commonwealth citizen " means a person who has the status of a Commonwealth citizen under this Act.
- (3) In any enactment or instrument whatever passed or made before commencement—
- (a) " citizen of the United Kingdom and Colonies "—
 - (i) in relation to any time before commencement, means a person who under the 1948 Act was at that time a citizen of the United Kingdom and Colonies ;
 - (ii) in relation to any time after commencement, means a person who under this Act is a British citizen, a British Dependent Territories citizen or a British Overseas citizen;
 - (b) any reference to ceasing to be a citizen of the United Kingdom and Colonies shall, in relation to any time after commencement, be construed as a reference to becoming a person who is neither a British citizen nor a British Dependent Territories citizen nor a British Overseas citizen;
 - (c) any reference to a person who is a British subject (or a British subject without citizenship) by virtue of section 2, 13, or 16 of the 1948 Act or by virtue of,

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or of section 1 of, the British Nationality Act 1965 shall, in relation to any time after commencement, be construed as a reference to a person who under this Act is a British subject.

- (4) In any statutory provision, whether passed or made before or after commencement, and in any other instrument whatever made after commencement "alien", in relation to any time after commencement, means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland.
- (5) The preceding provisions of this section—
- (a) shall not apply in cases where the context otherwise requires; and
 - (b) shall not apply to this Act or to any instrument made under this Act.

52 Consequential amendments, transitional provisions, repeals and savings

- (1) In any enactment or instrument whatever passed or made before commencement, for any reference to section 1(3) of the 1948 Act (list of countries whose citizens are Commonwealth citizens under that Act) there shall be substituted a reference to Schedule 3 to this Act, unless the context makes that substitution inappropriate.
- (2) Subject to subsection (3), Her Majesty may by Order in Council make such consequential modifications of—
- (a) any enactment of the Parliament of the United Kingdom passed before commencement;
 - (b) any provision contained in any Northern Ireland legislation passed or made before commencement; or
 - (c) any instrument made before commencement under any such enactment or provision,
- as appear to Her necessary or expedient for preserving after commencement the substantive effect of that enactment, provision or instrument.
- (3) Subsection (2) shall not apply in relation to—
- (a) the Immigration Act 1971; or
 - (b) any provision of this Act not contained in Schedule 7.
- (4) Any Order in Council made under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Any provision made by Order in Council under subsection (2) after commencement may be made with retrospective effect as from commencement or any later date.
- (6) The enactments specified in Schedule 7 shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act.
- (7) This Act shall have effect subject to the transitional provisions contained in Schedule 8.
- (8) The enactments mentioned in Schedule 9 are hereby repealed to the extent specified in the third column of that Schedule.
- (9) Without prejudice to section 51, nothing in this Act affects the operation, in relation to any time before commencement, of any statutory provision passed or made before commencement.

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(10) Nothing in this Act shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

(11) In this section " modifications " includes additions, omissions and alterations.

53 Citation, commencement and extent

(1) This Act may be cited as the British Nationality Act 1981.

(2) This Act, except the provisions mentioned in subsection (3), shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and references to the commencement of this Act shall be construed as references to the beginning of that day.

(3) Section 49 and this section shall come into force on the passing of this Act.

(4) This Act extends to Northern Ireland.

(5) The provisions of this Act, except those mentioned in subsection (7), extend to the Islands and all dependent territories; and section 36 of the Immigration Act 1971 (power to extend provisions of that Act to Islands) shall apply to the said excepted provisions as if they were provisions of that Act.

(6) For the purposes of section 3(3) of the West Indies Act 1967 it is hereby declared that the provisions of this Act, except those mentioned in subsection (7), extend to all associated states.

(7) The provisions referred to in subsections (5) and (6) are—

(a) section 39 and Schedule 4 ;

(b) section 52(7) and Schedule 8 so far as they relate to the Immigration Act 1971; and

(c) section 52(8) and Schedule 9 so far as they relate to provisions of the Immigration Act 1971 other than Schedule 1.