***Changes to legislation:*** *British Nationality Act 1981, SCHEDULE 2 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

# SCHEDULES

## SCHEDULE 2

Section 36.

### PROVISIONS FOR REDUCING STATELESSNESS

**Modifications etc. (not altering text)**

**C1** Sch. 2 excluded by S.I. 1983/882, **art. 2(3)**

*Persons born in the United Kingdom after commencement*

1 (1) Where a person born in the United Kingdom after commencement would, but for this paragraph, be born stateless, then, subject to sub-paragraph (3)—

(a) if at the time of the birth his father or mother is a citizen or subject of a description mentioned in sub-paragraph (2), he shall be a citizen or subject of that description; and accordingly

(b) if **[**[F1]he is born legitimate and**]** at the time of the birth each of his parents is a citizen or subject of a different description so mentioned, he shall be a citizen or subject of the same description so mentioned as each of them is respectively at that time.

(2) The descriptions referred to in sub-paragraph (1) are a **[**[F2]British overseas territories citizen**]**, a British Overseas citizen and a British subject under this Act.

(3) A person shall not be a British subject by virtue of this paragraph if by virtue of it he is a citizen of a description mentioned in sub-paragraph (2).

**Textual Amendments**

**F1** Words in Sch. 2 para. 1(1)(b) ceased to have effect (1.7.2006 with effect as mentioned in s. 162(5) of the amending Act) and repealed (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 9(5)(a)**, 161, 162, **Sch. 9** (with s. 159); S.I. 2006/1498, **arts. 2(b)**, 3

**F2** Words in Sch. 2 para. 1 substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 2(2)(b)**

*Persons born in a **[**[F3]British overseas territory**]** after commencement*

**Textual Amendments**

**F3** Words in Sch. 2 para. 2 cross-heading substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

2 (1) Where a person born in a **[**[F4]British overseas territory**]** after commencement would, but for this paragraph, be born stateless, then, subject to sub-paragraph (3)—

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(a) if at the time of the birth his father or mother is a citizen or subject of a description mentioned in sub-paragraph (2), he shall be a citizen or subject of that description; and accordingly

(b) if **[**[F5]he is born legitimate and**]** at the time of the birth each of his parents is a citizen or subject of a different description so mentioned, he shall be a citizen or subject of the same description so mentioned as each of them is respectively at that time.

(2) The descriptions referred to in sub-paragraph (1) are a British citizen, a British Overseas citizen and a British subject under this Act.

(3) A person shall not be a British subject by virtue of this paragraph if by virtue of it he is a citizen of a description mentioned in sub-paragraph (2).

**Textual Amendments**

**F4** Words in Sch. 2 para. 2 substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

**F5** Words in Sch. 2 para. 2(1)(b) ceased to have effect (1.7.2006 with effect as mentioned in s. 162(5) of the amending Act) and repealed (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 9(5)(b)**, 161, 162, **Sch. 9** (with s. 159); S.I. 2006/1498, **arts. 2(b)**, 3

*Persons **[**[F6]aged 18 to 22**]** born in the United Kingdom or a **[**[F7]British overseas territory**]** after commencement*

**Textual Amendments**

**F6** Words in Sch. 2 para. 3 cross-heading inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 11(2)**, 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 9

**F7** Words in Sch. 2 para. 3 cross-heading substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

3 (1) A person born in the United Kingdom or a **[**[F8]British overseas territory**]** after commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the following requirements are satisfied in his case, namely—

(a) that he is and always has been stateless; and

(b) that on the date of the application he **[**[F9]had attained the age of eighteen but**]**[F10]. . . was under the age of twenty-two; and

(c) that he was in the United Kingdom or a **[**[F8]British overseas territory**]** (no matter which) at the beginning of the period of five years ending with that date and that (subject to paragraph 6) the number of days on which he was absent from both the United Kingdom and the **[**[F11]British overseas territories**]** in that period does not exceed 450.

(2) A person entitled to registration under this paragraph—

(a) shall be registered under it as a British citizen if, in the period of five years mentioned in sub-paragraph (1), the number of days wholly or partly spent by him in the United Kingdom exceeds the number of days wholly or partly spent by him in the **[**[F11]British overseas territories**]**;

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(b) in any other case, shall be registered under it as a **[**[F12]British overseas territories citizen**]**.

**Textual Amendments**

**F8** Words in Sch. 2 para. 3 substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

**F9** Words in Sch. 2 para. 3(1)(b) inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 11(3)**, 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 9

**F10** Words in Sch. 2 para. 3(1)(b) repealed (1.4.2003 with effect as mentioned in s. 162(4) of the amending Act) by Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 8, 161, 162, **Sch. 9** (with s. 159); S.I. 2003/754, **art. 2**, Sch. 1 (with arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, art. 2 and S.I. 2003/1339, art. 4))

**F11** Words in Sch. 2 para. 3 substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

**F12** Words in Sch. 2 para. 3(2)(b) substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 2(2)(b)**

*[*[F13]*Minors aged 5 to 17 born in the United Kingdom or a British overseas territory after commencement*

**Textual Amendments**

**F13** Sch. 2 para. 3A and cross-heading inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 11(4)**, 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 9

3A (1) A person born in the United Kingdom or a British overseas territory after commencement is entitled, on an application for the person to be registered under this paragraph, to be so registered if—

(a) the person is and always has been stateless,

(b) on the date of the application, the person was a minor,

(c) the person was in the United Kingdom or a British overseas territory (no matter which) at the beginning of the period of five years ending with that date and (subject to paragraph 6) the number of days on which the person was absent from both the United Kingdom and the British overseas territories in that period does not exceed 450, and

(d) the Secretary of State is satisfied that the person is unable to acquire another nationality in accordance with sub-paragraph (2).

(2) A person is able to acquire a nationality in accordance with this sub-paragraph if—

(a) the nationality is the same as that of one of the person's parents,

(b) the person has been entitled to acquire the nationality since birth, and

(c) in all the circumstances, it is reasonable to expect the person (or someone acting on their behalf) to take the steps which would enable the person to acquire the nationality in question.

(3) For the purposes of sub-paragraph (2)(b), a person is not entitled to acquire a nationality if its acquisition is conditional on the exercise of a discretion on the part of the country or territory in question.

(4) A person entitled to registration under this paragraph—

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(a) is to be registered as a British citizen if, in the period of five years mentioned in sub-paragraph (1), the number of days wholly or partly spent by the person in the United Kingdom exceeds the number of days wholly or partly spent by the person in the British overseas territory;

(b) in any other case, is to be registered as a British overseas territories citizen.**]**

*Persons born outside the United Kingdom and the [F14British overseas territories] after commencement*

**Textual Amendments**

**F14** Words in Sch. 2 para. 4 cross-heading substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

4 (1) A person born outside the United Kingdom and the **[**F15British overseas territories**]** after commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the following requirements are satisfied, namely—

(a) that that person is and always has been stateless; and

(b) that at the time of that person's birth his father or mother was a citizen or subject of a description mentioned in sub-paragraph (4); and

(c) that that person was in the United Kingdom or a **[**F16British overseas territory**]**(no matter which) at the beginning of the period of three years ending with the date of the application and that (subject to paragraph 6) the number of days on which he was absent from both the United Kingdom and the **[**F15British overseas territories**]** in that period does not exceed 270.

(2) A person entitled to registration under this paragraph—

(a) shall be registered under it as a citizen or subject of a description available to him in accordance with sub-paragraph (3); and

(b) if more than one description is so available to him, shall be registered under this paragraph as a citizen of whichever one or more of the descriptions so available to him is or are stated in the application under this paragraph to be wanted.

(3) For the purposes of this paragraph the descriptions of citizen or subject available to a person entitled to registration under this paragraph are—

(a) in the case of a person whose father or mother was at the time of that person's birth a citizen of a description mentioned in sub-paragraph (4), any description of citizen so mentioned which applied to his father or mother at that time;

(b) in any other case, a British subject under this Act.

(4) The descriptions referred to in sub-paragraphs (1) to (3) are a British citizen, a **[**F17British overseas territories citizen**]** , a British Overseas citizen and a British subject under this Act.

**Textual Amendments**

**F15** Words in Sch. 2 para. 4 substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

**F16** Words in Sch. 2 para. 4 substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

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**F17** Words in Sch. 2 para. 4(4) substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 2(2)(b)**

*Persons born stateless before commencement*

5 (1) A person born before commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the circumstances are such that, if—

(a) this Act had not been passed, and the enactments repealed or amended by this Act had continued in force accordingly; and

(b) an application for the registration of that person under section 1 of the [M1]British Nationality (No. 2) Act 1964 (stateless persons) as a citizen of the United Kingdom and Colonies had been made on the date of the application under this paragraph,

that person would have been entitled under that section to be registered as such a citizen.

(2) A person entitled to registration under this paragraph shall be registered under it as such a citizen as he would have become at commencement if, immediately before commencement, he had been registered as a citizen of the United Kingdom and Colonies under section 1 of the [M2]British Nationality (No. 2) Act 1964 on whichever of the grounds mentioned in subsection (1)(a) to (c) of that section he would have been entitled to be so registered on in the circumstances described in sub-paragraph (1)(a) and (b) of this paragraph.

**Marginal Citations**

**M1** 1964 c. 54.

**M2** 1964 c. 54.

*Supplementary*

6 If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 3 **[**[F18], 3A**]** or 4 treat the person who is the subject of the application as fulfilling the requirement specified in sub-paragraph (1)(c) of that paragraph although the number of days on which he was absent from both the United Kingdom and the **[**[F19]British overseas territories**]** in the period there mentioned exceeds the number there mentioned.

**Textual Amendments**

**F18** Word in Sch. 2 para. 6 inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 11(5)**, 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 9

**F19** Words in Sch. 2 para. 6 substituted (26.2.2002) by British Overseas Territories Act 2002 (c. 8), **s. 1(1)(b)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4AA inserted by 2024 c. 19 s. 1(2)
- s. 6(3)(4) inserted by 2009 c. 11 s. 40(2) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- s. 41(1)(bc)-(be) inserted by 2009 c. 11 s. 41(2) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- s. 41(1B)(1C) inserted by 2009 c. 11 s. 41(3) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- s. 50A(1)(aa) inserted by 2024 c. 19 s. 1(4)(a)
- Sch. 1 para. 2(1)(ba)(bb) inserted by 2009 c. 11 s. 39(5) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- Sch. 1 para. 2(1)(ca) inserted by 2009 c. 11 s. 39(7) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- Sch. 1 para. 2(5) inserted by 2009 c. 11 s. 39(10) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- Sch. 1 para. 6(2)-(4) inserted by 2022 c. 36 Sch. 1 para. 3(4)(d)
- Sch. 1 para. 2(1)(c) repealed by 2009 c. 11 s. 39(6)Sch. Pt. 2 (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- Sch. 1 para. 2(1)(a) substituted by 2009 c. 11 s. 39(4) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- Sch. 1 para. 2(2)-(4) substituted for Sch. 1 para. 2(2)(3) by 2009 c. 11 s. 39(9) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- Sch. 1 para. 2(1)(d) word substituted by 2009 c. 11 s. 39(8)(a) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))
- Sch. 1 para. 2(1)(d) words substituted by 2009 c. 11 s. 39(8)(b) (Amending provision prospectively repealed by 2022 c. 36, s. 9(3)(a))