



Home Office

# Registration as British citizen: British Nationality (Hong Kong) Act 1997

Version 2.0

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# About this guidance

This guidance tells Nationality caseworkers about the types of applications that can be made for British citizenship under legislation other than the British Nationality Act 1981.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Nationality policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **11 August 2017**

## Changes from last version of this guidance

Typing error corrected in [The law](#). Date corrected to 4 February 1997.

### Related content

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# Registrating as a British citizen: legal requirements

This page tells you about the relevant law which sets out who automatically acquires British citizenship.

Most citizenship applications are made under the British Nationality Act 1981, however there may be some rare applications which are made under other legislation.

In terms of new applications, an application can be made under the British Nationality (Hong Kong) Act 1997. Where an application is made on this basis you must consider the application in accordance with this guidance.

You may also need to be aware of previous provisions under which an individual could have applied for British citizenship under the:

- [British Nationality Act 1948](#)
- [British Nationality \(Falkland Islands\) Act 1983](#)
- [British Nationality \(Hong Kong\) Act 1990](#)
- [British Nationality \(war wives and widows\) Act 1996](#)

Guidance on considering applications made under these acts was previously published in chapter 14 of the nationality directorate instructions which is available from the guidance archive.

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# British Nationality (Hong Kong) Act 1997

This page tells you about who can register as a British citizen under the British Nationality (Hong Kong) Act 1997.

## The Law

- Under [section 1\(1\) of the British Nationality \(Hong Kong\) Act 1997](#), a person will be entitled to registration as a British citizen if they are ordinarily resident in Hong Kong at the time of the application; and immediately before 4 February 1997 was ordinarily resident in Hong Kong and they were either:
  - a British dependent territories citizen (BDTC) by virtue only of them having a connection with Hong Kong (within the meaning given by the schedule to this act) and would have been a stateless person if they had not been such a citizen
  - such a citizen and a British national (overseas) (BNO)
- a British overseas citizen (BOC), a British subject or a British protected person and would have been a stateless person if they had not been such a citizen, subject or person

Where an individual has renounced or otherwise voluntarily given up nationality or citizenship of another country after 4 February 1997 they will not be eligible to register as British citizens under this act. Any application must be refused under [section 1\(6\) of the British Nationality \(Hong Kong\) Act 1997](#).

## Applicants born after 4 February 1997

A person who was born at any time on or after 4 February 1997, must be considered against the requirements as if the reference to immediately before 4 February 1997 were a reference to the date on which they born.

## Requirement to be a BDTC, a BNO, British subject or a British protected person.

When considering an applicant against the requirement to be a BDTC, a BNO, British subject or a British protected person, an individual will meet this where they obtained the relevant status at any time on or after the relevant date (either 4 February 1997 or their date of birth where this was after 4 February).

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# Evidence required to establish claim

This page tells you about the types of documents needed to establish a claim to British citizenship.

## Permanent Identity Card

All applicants must produce photocopies of their Hong Kong Permanent Identity Cards (PIC). The PIC serves a number of useful functions:

- it establishes the applicant's identity
- it indicates the probability of Chinese citizenship
- where the applicant is applying in Hong Kong (or has gone or might go there after applying elsewhere), the unique card number enables the British Consulate General there to make database checks on the acquisition of British nationality

## Evidence of British nationality

In most cases, production of the applicant's passport or certificate of registration or naturalisation will be sufficient to confirm that an applicant held British nationality at the relevant time although, in some cases, further investigation will be needed. Applications should be supported by evidence of the applicant's citizenship or status as outlined in this section.

## Former Hong Kong British dependent territories citizens who are now British overseas citizens

Applicants who were Hong Kong British dependent territories citizens (BDTC) and became British overseas citizens (BOCs) under the [Hong Kong \(British Nationality\) Order 1986](#) should be asked to produce one or more of the following documentation:

- a passport describing the holder as a BDTC by virtue of a connection with Hong Kong
- a birth certificate showing parents' details and birth in Hong Kong before 1 January 1983
- a birth certificate showing parents' details, birth in Hong Kong on or after 1 January 1983, and showing the word 'Established' in column 12
- a certificate of registration or naturalisation issued by the Governor of Hong Kong describing the holder as a BDTC
- the relevant documents related to parents, grandparents, spouse's birth, adoption, marriage, death, registration, or naturalisation which otherwise establish a claim to BDTC by connection with Hong Kong

It is not normally necessary for applicants to produce evidence that they did not also hold BDTC by connection with some other British overseas territory. However, if it appears that this could be the case because, for example the applicant, a parent or grandparent was born in a British overseas territory other than Hong Kong, this should be investigated.

## British nationals (overseas) (BNO)

A claim to be a BNO should be supported by a passport describing the holder as a BNO.

In order to be registered as a BNO, the registration authority must have been satisfied that the person was a BDTC by virtue only of a connection with Hong Kong. It is not therefore necessary, if an applicant is a BNO, to investigate how the person came to be a BDTC.

## British overseas citizens (BOC)

Applicants who became BOCs without first having been BDTC must be asked to produce one or more of the following documents:

- a passport describing the holder as a BOC
- a certificate of registration describing the holder as a BOC
- a certificate of registration granted outside the UK and the dependent territories describing the holder as a citizen of the UK and Colonies, which:
  - did not give the holder the right of abode in the UK under section 2(1)(a), read with section 2(4), of the [Immigration Act 1971](#), as originally enacted
- relevant documents related to parents, grandparents, spouse etc, similar to those required to establish BDTC, but which establish that the applicant was a citizen of the UK and Colonies who did not, on 1 January 1983, become either a British citizen or a BDTC

## British subjects

A claim to British subject status should be supported by one or more of the following documents:

- a passport issued on or after 1 January 1983 describing the holder as a British subject
- a certificate of registration describing the holder as a British subject
- an acknowledgement of a claim to remain a British subject under section 2 of the [British Nationality Act 1948](#) or section 31(3) of the [British Nationality Act 1981](#)
- relevant documents related to parents, grandparents, spouse, similar to those required to establish BDTC, but which establish that the applicant became, on 1 January 1949, a British subject without citizenship under section 13 or 16 of the [British Nationality Act 1948](#), and had that status on 31 December 1982

## British protected persons

A claim to British protected person status must be supported by one or more of the following:

- a passport issued on or after 1 January 1983 describing the holder as a British protected person

- a certificate of registration, describing the holder as a British protected person, issued under Article 7(2) of the [British Protectorates, Protected States and Protected Persons Order 1982](#)
- other documents and information which show that the person can be regarded as a British protected person under:
  - any provision of the [British Protectorates, Protected States and Protected Persons Order 1982](#)
  - the [Solomon Islands Act 1978](#)

## Ordinary residence in Hong Kong

All applications should be supported by evidence that the applicant was:

- ordinarily resident in Hong Kong at the date of the application
- ordinarily resident there at 'the relevant date'

The terms 'ordinary residence' and 'ordinarily resident' are not defined in nationality law. The courts have held that if there can be proven a regular habitual mode of life in a particular place, the continuity of which has persisted despite temporary absences, ordinary residence is established provided only that it is adopted voluntarily and for a settled purpose (and provided it is lawful).

In many cases, it is expected that the documents listed in the [evidence of ordinary residence in Hong Kong](#) section will be sufficient to show to our satisfaction that applicants were ordinarily resident in Hong Kong on both of the dates applicable to them without the need for further enquiry.

Absences from Hong Kong for holidays or other temporary purposes do not affect a person's ordinary residence there. However, you must consider absences abroad for employment, business or study purposes. These absences can last for several years, and the circumstances of particular cases may indicate that the applicant could no longer be regarded as having been ordinarily resident in Hong Kong.

## Evidence of ordinary residence in Hong Kong

The kind of evidence which will enable the ordinary residence requirement to be assessed is a Hong Kong Immigration Department Travel Record for the previous 5 years and at least one of the following:

- a travel document or documents covering periods up to and beyond the application date and showing any absences from Hong Kong, or showing a pattern of absences which clearly indicate that the applicant's normal place of residence was Hong Kong at the relevant times
- letters from employers in Hong Kong confirming the periods during which the applicant was in their employ
- letters from educational establishments confirming the periods during which the applicant attended or was enrolled

Some applicants may be unable to produce any of the evidence above. They may never have held a travel document, and they may be self-employed, unemployed or

retired. In such cases, you must ask to see any other available documentary evidence of their residence in Hong Kong. At our discretion, you may accept:

- notices of tax liability
- letters from accountants
- records of rent or mortgage payments
- (as a last resort) testimonials from persons in good standing who can attest to having been personally acquainted with the applicant in Hong Kong

It may be helpful, in borderline cases, to send a residence questionnaire (EM) and to ask for evidence that the applicant maintained a home or family in Hong Kong at the relevant times.

Applicants who were under 18 years of age on the date of application or 4 February 1997 should have their ordinary residence on the date or dates concerned assessed by reference to their parents' place of ordinary residence on that date. The same will apply if an applicant was born on or after 4 February 1997. In such cases, they must provide evidence of their parents' residence during this period.

### Claims to have been solely British immediately before "the relevant date"

The following procedure applies generally for determining whether applicants had claims to other nationalities, but there are separate procedures for applicants of Indian or Pakistani origin and for certain applicants of Chinese ancestry.

It can normally be assumed that an applicant had no claim to any other nationality or citizenship on 'the relevant date', if they have declared that:

- they hold no nationality other than British
- neither they nor either parent was born outside Hong Kong
- both parents have no nationality other than British

Chinese women who marry Muslim men usually adopt Muslim names on marriage. It is therefore important to ensure that the names before marriage of female applicants and their mothers are given (as required) on the application form, since a Chinese name may indicate a claim to Chinese citizenship.

If applicants have declared that they have another nationality, and if they held this 'at the relevant date', they will not be eligible for registration. If the applicant or either parent was born outside Hong Kong, or if either parent is stated to hold another nationality, it is possible that the applicant will hold another nationality. In these circumstances, the applicant must obtain a statement from the authorities of the country or countries concerned confirming that the applicant did not hold their nationality or citizenship on 'the relevant date'. Such letters of confirmation should not be taken at face value if they appear to conflict with the information we hold about the citizenship laws of the countries concerned.

Further enquiries, or an interview with the applicant, may be needed to resolve any apparent discrepancies. If applicants claim to have tried, unsuccessfully, to obtain a

letter confirming non-possession of another citizenship, you must request that they give written consent to our writing direct to the authorities of the country concerned. In the case of Chinese citizenship, the British Consulate-General in Hong Kong should be asked to forward our letter to the Hong Kong Special Administrative Region Immigration Department. If applicants do not give their consent to this within a reasonable time, after being reminded, they will not have established their entitlement to registration and they should be notified that their applications are refused.

Where it appears that an applicant has been issued with a formal document, such as a passport or certificate, describing the person as a citizen of another country, but information held about that country's nationality laws indicates that dual nationality is not permitted, it should not be assumed that the document was issued incorrectly. Instead, you must make further enquiries along the lines above. In particular, the applicant should be asked to provide a letter from the relevant authorities confirming that:

- the document concerned was issued in error
- the applicant was at no time a citizen of that country or lost the citizenship of that country on a specific date

### **Applicants of Pakistani origin**

Holders of Pakistani citizenship are not generally permitted to hold another form of citizenship or nationality. There are some exceptions to this such as where the individual is under the age of 21 or also holds British, Swedish or American citizenship. You must note however that this does not apply to other forms of British nationality.

### **Applicants of Chinese origin**

If applicants produce Hong Kong Permanent Identity Cards which have the symbol \*\*\* (3 asterisks), it is almost certain that they are of Chinese ancestry and are Chinese citizens. They should therefore be asked, regardless of where they are applying, to contact the Hong Kong Special Administrative Region Immigration Department for confirmation that they were not Chinese citizens.

However, it should be noted that the issuing authority can remove these asterisks at the holder's request and, therefore, their absence is not conclusive proof that the holder was not a Chinese citizen. Where it appears from the application form or other information that applicants are wholly or partly of Chinese ancestry, they should normally be required to obtain confirmation from the Hong Kong Immigration Department that they were not Chinese citizens at 'the relevant date'.

### **Applicants of Nepalese origin**

Nepalese law did not permit dual nationality in any circumstances. A person who, under the Nepal Citizenship Law 1964, would otherwise have been a Nepalese citizen (for example, through having been born to a Nepalese citizen father):

- automatically ceased to be a Nepalese citizen immediately upon acquiring (by whatever means) the citizenship of another country

- failed at the outset to acquire Nepalese citizenship if, at the relevant time (such as at the moment of birth) he or she was then a citizen of another country

### **Renunciation or loss of another nationality or citizenship**

If applicants have declared that they had another nationality but renounced it or otherwise lost it, you must see evidence of renunciation or loss and of the date on which this took place. The date of renunciation or loss is crucial since the possession of any other nationality immediately before 'the relevant date', or (in the case of applicants to whom section 1(4) and section 1(5) apply) the possession of another nationality at the time of the birth, registration or naturalisation as a British national, would render an applicant ineligible for registration.

Applicants will not be eligible for registration if the following applies:

- they were solely British immediately before 'the relevant date' (or at the relevant time)
- they subsequently acquired another nationality or citizenship
- they then renounced that other nationality or citizenship (or voluntarily gave it up by some other process equating to renunciation)

An applicant who has been deprived of the other nationality or citizenship by automatic operation of another country's law should not be considered to have voluntarily given up that nationality or citizenship.

### **Consent to minors' applications**

It is not necessary for minors applying for registration to obtain the consent of their parents or persons having responsibility for them.

If they meet the requirements, they are entitled to registration, and the application cannot be refused even if the parents or the responsible person or persons do not consent to it.

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