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Nationality: Registration as a British Citizen

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On 6 April 2015 section 65 of the Immigration Act 2014 came into force. It amends the British Nationality Act 1981 to insert new provisions which change the rules on who can register as a British Citizen.

Since 1 July 2006 children born to British citizen fathers not married to their mothers have been born British citizens, subject to proof of paternity. A child who was born before that date, whether in the UK or overseas, who did not acquire British citizenship through his/her mother, did not acquire it through his/her father unless his/her parents were married to each other. This can be done by showing the father's name on a contemporaneous birth certificate, by producing a court judgment, by DNA evidence or by other means.

The changes correct some, but not all, of the historical discrimination against those born to British citizen fathers "illegitimate" or "out of wedlock" prior to 1 July 2006.

The provisions deal with two groups of people:

- those who would have been born British citizens or become British citizens automatically had their father been married to their mother, and
- those who would have been able to register as British citizens had their father been married to their mother.

Provision is more generous for the first group.

Those who would have been British citizens by birth or automatically had their British citizen father been married to their mother will be able to register as British citizens on proof of paternity, subject to a good character test for the over 10s. It does not matter how old a person is. Paternity is proven, as for those born after 1 July 2006, by showing the father's name on a contemporaneous birth certificate, by producing a court judgment, by DNA evidence or by other means.

Automatically really does mean “automatically”: if there were extra steps to be taken (such as the parents registering the birth) and these steps were not taken, the entitlement to register will not arise.

If a person born to a British father not married to his/her mother had acquired British citizenship in another way and had subsequently renounced it, they will not be able to benefit from this provision.

The really good news is that there is no fee for these applications, apart from the £80 fee for a citizenship ceremony in applicable cases. The application form is Form UKF.

Those who would have been entitled to register as British citizens under the British Nationality Act 1981 had their father been married to their mother can apply to register as British citizens if they meet all other conditions for registration. This means in practice that the person will need still to be under 18, as well as providing proof of paternity and, for the under 10s, good character. The specific requirements of the applicable registration provision must also be met. The application form is MNI. These persons will need to pay an application fee.

Whether a person becomes a British citizen “by descent” (not able to pass their nationality on to a child born outside the UK) or a British citizen “otherwise than by descent” (able to pass their nationality to a child born anywhere in the world) depends upon what they would have been had their father been married to their mother) depends upon what they would have been had their parents been married at the time of their birth.

Nationality law is complex. For some people it will be more difficult than for others to determine that they meet the requirements and specialist advice may be needed.

The provisions only apply to people who would be British citizens today, not to people who would have acquired any other forms of British nationality (such as British Overseas Territories Citizens, British Overseas Citizenship etc.) It only applies if the problem is with the parent’s nationality, it does not reach back as far as grandparents. If a parent was not born British because the British grandfather was not married to the grandmother then the parent, if still living, will need to sort out his/her status before it is possible to consider that of grandchild.

Lord Avebury and ILPA have worked for many years to challenge discrimination against these persons. This represents an important step on the journey, but not, we hope, the last one.