



Home Office

# Naturalisation as a BOTC at discretion

Version 3.0

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# About this guidance

This guidance tells Nationality caseworkers about the requirements for naturalisation as a British overseas territories citizen (BOTC).

## 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 **3.0**
- published for Home Office staff on **21 July 2023**

## Changes from last version of this guidance

Changes have been made to reflect the introduction of the Illegal Migration Act 2023.

### Related content

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# Naturalisation as a BOTC

This page tells you about naturalisation as a British overseas territories citizen (BOTC).

Naturalisation is the main means by which adults can acquire BOTC status under the British Nationality Act 1981, although the Nationality and Borders Act 2022 created new routes for people to register as adults. Any person of full age and capacity, who is not already a BOTC, can be naturalised as a BOTC regardless of existing nationality or citizenship.

Naturalisation is at the discretion of the Home Secretary, but has been delegated to the Governor of the British overseas territory acting on their behalf. Under [section 18 of the British Nationality Act 1981](#), the Governor may grant a certificate of naturalisation to a person of full age and capacity if they are satisfied that the person meets the full requirements set out in [schedule 1 to the act](#). There is no power to grant an individual who does not meet these requirements, however the Governor does not have to grant someone who does meet the requirements where it is in the public interest not to do so.

In addition to the statutory requirements set out in [section 18](#) and [schedule 1](#) to the British nationality Act 1981, it is an administrative requirement that every application should normally be supported by 2 referees who are themselves a BOTC.

The process for assessing if the statutory requirements are met will vary for territory to territory. However, for consistency, you may wish to refer to the guidance on [naturalisation as a British citizen](#).

## Status acquired

A person who is granted a certificate of naturalisation as a BOTC under [section 18\(1\) or 18\(2\) of the British Nationality Act 1981](#) is a BOTC otherwise than by descent.

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# Naturalisation under section 18(1)

This section tells you what requirements an individual must meet to be naturalised under [section 18\(1\) of the British Nationality Act 1981](#).

Persons may be granted certificates of naturalisation as British overseas territories citizen (BOTC) under [section 18\(1\) of the British Nationality Act 1981](#) if on the date of application they:

- are aged 18 or over
- are of full capacity
- either:
  - meet the residence requirements
  - are serving outside of the relevant British overseas territory in Crown service under the government of that territory.

In addition, they must:

- be of good character
- have sufficient knowledge of the English language or any other language recognised for official purposes in the relevant British overseas territory
- intend, if a certificate of naturalisation as a BOTC is granted, to have their principal home in the relevant British overseas territory (BOT)
- intend, if a certificate of naturalisation as a BOTC is granted, to enter into, or continue in:
  - Crown service under the government of that territory
  - service under an international organisation of which that territory or the government thereof is a member
  - service in the employment of a company or association established in that territory

A person will not be eligible for naturalisation under this section if they meet the criteria for the [citizenship ban](#).

## Residence requirements under section 18(1)

In order to meet the residence requirements the applicant must:

- have been in the relevant territory at the beginning of the period of 5 years ending with the date of the application
- not have been absent from that territory for more than 450 days in the 5 year period
- not have been absent from that territory for more than 90 days in the 12 month period ending with the date of application
- not, on the date of application, be subject under immigration laws to any restriction on the period of stay in that territory

- not, at any other time in the 12 month period ending with the date of application, have been subject under the immigration laws to any restriction on the period of stay in that territory
- not, at any time in the period of 5 years ending with the date of application, been in that territory in breach of immigration laws

## Discretion

There is discretion to waive:

- the language requirement
- the residence requirements except the requirement:
  - to not be subject to any restriction on their period of stay at the time of application
- the full capacity requirement

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# Naturalisation under section 18(2)

This section tells you what requirement an individual must meet to be naturalised under [section 18\(2\) of the British Nationality Act 1981](#).

A person may be granted a certificate of naturalisation as a British overseas territories citizen (BOTC) under [section 18 \(2\) of the British Nationality Act 1981](#) if, on the date of application they:

- are of full age
- are of full capacity
- are married to or in a civil partnership with a BOTC
- meet the [residence requirements](#)
- have sufficient knowledge of English language or any other language recognised for official purposes in the relevant British overseas territory
- at the time of consideration, are of good character and still of full capacity

A person will not be eligible for naturalisation under this section if they meet the criteria for the [citizenship ban](#).

## Residence requirements under section 18(2)

In order to meet the residence requirements the applicant must:

- have been in the relevant territory at the beginning of a 3 year period ending with the date of application
- not have been absent from the territory for more than 270 days in the 3 year period
- not have been absent for more than 90 days in the 12 month period ending with the date of application
- not on the date of application, be subject under the immigration laws to any restriction on the period of stay in that territory
- not, at any time have been in breach of the immigration laws of the territory in the 3 year period ending with the date of application

## Discretion under section 18(2)

There is discretion to waive:

- the language requirement
- the residence requirements except the requirement:
  - to not be subject to any restriction on their period of stay at the time of application
- the full capacity requirement

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# Requirements common to sections 18(1) and 18(2)

An applicant for naturalisation under either section 18(1) or section 18(2) of the [British Nationality Act 1981](#) is regarded as being absent from the relevant territory when in that territory and they are:

- entitled to an exemption under the immigration laws of that territory corresponding to [section 8\(3\)](#), diplomats, or [section \(4\)](#), members of home, Commonwealth or visiting forces, of the [Immigration Act 1971](#), as amended by section 4 of the [Immigration Act 1988](#)
- a member of the family and part of the household of a person entitled to such an exemption
- detained as a result of a sentence passed by a court in that territory, or elsewhere, for any offence
- detained in hospital in that territory:
  - under a direction made under any law for purposes similar to [Part III of the Mental Health Act 1983](#)
  - in connection with a conviction for an offence and corresponding to a hospital order under that [part of the 1983 act](#)
    - detained under any power of detention conferred by the immigration laws of that territory
    - liable to be detained for any of the reasons above, but is unlawfully at large or absent without leave and, for that reason, is liable to be arrested

## Discretion

There is discretion to treat as residence in the relevant territory, a period which is regarded as absence from that territory for any reasons above.

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# Children

This section tells you how to handle applications where children have been included on a parent's naturalisation application.

Individuals under the age of 18 cannot be naturalised regardless of whether they are included by their parents on their application. In these cases you must check whether they are already British overseas territories citizens (BOTC) or if they can be registered as BOTC, either because they have an entitlement or at the discretion of the Governor.

## **Related content**

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Registration as a BOTC: children

# Language requirement

This section tells you how to assess whether an individual meets the language requirement for naturalisation as a British overseas territories citizen.

Applicants for naturalisation under [section 18 of the British Nationality Act 1981](#) are required to have sufficient knowledge of English language or any other language recognised for official purposes in the relevant territory. The act does not define what is a 'sufficient knowledge', it also does not specify how that language has to be expressed, such as being able to read, write or speak the language.

For practical purposes, an adequate level of language ability may be assumed unless there is information to hand which suggests that this may not be so. Where you have reason to doubt the applicants proficiency you must make relevant enquiries such as asking referees whether the applicant can speak and understand the relevant language to a level where they can:

- make simple conversation about themselves and their family and way of life
- communicate sufficiently to deal with everyday situations such as travelling, shopping, visiting the doctor's surgery or a child's school, and conducting dealings with officials

## Discretion to waive the language requirement

There is discretion in [paragraph 6\(e\) of schedule 1 to the British Nationality Act 1981](#) to waive the language requirement if because of age or physical or mental condition, it would be unreasonable to expect the applicant to fulfil it.

The circumstances in which the language requirement may be waived are as follows:

- age:
  - you should waive the language requirement where the applicant is aged 65 or over and must consider evidence that there are compelling grounds for exercising it at a lesser age
- physical condition:
  - suffering from a long term illness or disability which severely restricts mobility and hence the ability to attend classes in the relevant language or practise this in the community
  - deaf or speech impaired which limits the ability to converse in the relevant language
- learning disabilities:
  - discretion should be exercised where an applicant has a learning disability that, whilst it would be unreasonable to expect them to fulfil the language requirement due to difficulty speaking or learning the relevant language, they are able to meet the full capacity requirement

Only where there is conclusive evidence that applicants do not meet the minimum standard required should the application be refused, and the applicants advised to re-apply when they can better meet this requirement.

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# The citizenship ban

The Illegal Migration Act 2023 introduced a “citizenship ban”. This will apply where the applicant:

- required leave to enter the territory, but entered the territory:
  - without permission to enter (or with permission to enter that was obtained by deception)
  - in breach of a deportation order
  - without a valid entry document if one was required
- entered or arrived on or after 7 March 2023
- did not come directly from a country in which their life and liberty were threatened by reason of their race, religion, nationality, membership of a particular social group or political opinion

They also will not qualify if they entered the UK, Jersey, Guernsey or the Isle of Man in the same way.

There is an exemption to the citizenship ban where treating a person as ineligible for citizenship would breach the United Kingdom’s obligations under the Human Rights Convention. This means that we will need to consider the application, although not necessarily grant.

It is unlikely that you will see any applications where this applies for some time. This is because a person who enters on or after 7 March 2023 would not be able to apply for naturalisation for many years. However, if you do come across such an application, you must refer it to Nationality Policy Team for advice.

## **Related content**

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# Referees

This section tells you about the requirements that must be met by individuals acting as referees on an application.

All referees are required:

- to be a British overseas territories citizen
- to be aged 25 or over
- to have known the applicant for at least 3 years
- to not be a solicitor, agent or relative of the applicant
- to not be related to each other
- to not have been convicted for an imprisonable offence during the past 10 years

Unless it appears otherwise, it should be assumed that the referees meet the requirements above.

If however, it is clear from any information we have that a referee does not meet one or more of these requirements, the applicant must be asked to provide an additional referee.

## **Related content**

[Contents](#)

## **Related external links**

[General guidance for nationality applications](#)