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**CHAPTER 22
SECTION 2****UNITED KINGDOM PASSPORTS****1. DEFINITION**

Section 33(1) of the Immigration Act, as amended by Paragraph 7(a)(ii) of Schedule 4 to the British Nationality Act 1981, defines "United Kingdom passport" as meaning a current passport issued by the Government of the United Kingdom, or by the Lt-Governor of any of the Islands, or by the Government of any territory which is for the time being a dependent territory within the meaning of the British Nationality Act 1981.

2. BRITISH NATIONALS - THE EFFECT OF THE BRITISH NATIONALITY ACT 1981

Under the British Nationality Act 1948 most British passports were endorsed **British subject: citizen of the United Kingdom and Colonies** (BS: CUKC). The British Nationality Act 1981, enacted on 1.1.83, replaced this status with the following forms of citizenship, based on the level of the holder's links with the United Kingdom:

British citizens (BCs) - who have the right of abode in the United Kingdom;

British overseas territories citizens (BOTCs) - who have a connection with the sovereign base areas of Cyprus (all other BOTCs became British citizens on 21.5.02 under the provisions of the British Overseas Territories Act 2002);

British Overseas citizens (BOCs) - who, generally speaking, have no automatic right to reside anywhere rather than any alternative citizenship to which they may have/have had a claim. They require leave to enter the United Kingdom.

There are three additional categories of British nationals:

British protected persons (BPPs) - from territories previously under British protection;

British subjects (BSs) - these are mostly people who were born in British India before 1.1.49 and did not become citizens of India, or who were citizens of Eire and British subjects before 1.1.49 and have made a claim to retain British subject status; and

British Nationals (Overseas) (BN(O)s) - see **Annex A** to this instruction.

2.1. After entry casework - responsibility for applications from United Kingdom Passport Holders

Managed Migration considers applications by BOCs, BPPs and British subjects. Applications from BOTCs are dealt with in other caseworking groups.

Managed Migration considers limited **and** indefinite leave cases except business, and sole representatives and asylum.

3. ENDORSEMENTS IN UNITED KINGDOM PASSPORTS

Since 1 January 1983, no endorsement about immigration status has been necessary in passports issued to British citizens as they are automatically exempt from control, but passports issued to persons in the other categories above are endorsed to show their immigration status.

Standard United Kingdom passports are of 32 pages. A passport of 48 pages is available for persons who travel widely. Both types of passport are valid for a maximum of 10 years and 9 months.

Passports issued in British overseas territories or the Islands have the name of the territory or island on the cover. Those issued by the Government of the United Kingdom on behalf of other issuing authorities may have an endorsement to this effect within the passport.

In the case of those issued on behalf of independent Commonwealth countries, the status of the holder is shown as "Commonwealth Citizen".

3.1. Endorsements in passports issued to British Overseas citizens

A passport issued to a British Overseas citizen may contain any of the endorsements below:

- * The holder is entitled to readmission to the United Kingdom;
- * The holder is subject to control under the Immigration Act 1971; or
- * The holder's status under the Immigration Act 1971 has not yet been determined.

In the case of the latter endorsement, unless the holder can demonstrate that he qualifies as a returning resident, he should be given leave to enter for 2 months and advised to contact Managed Migration.

4. BRITISH OVERSEAS CITIZENS, BRITISH PROTECTED PERSONS AND BRITISH SUBJECTS ARRIVING WITH A WORK PERMIT OR ENTRY CLEARANCE

4.1. Work permits

The concession which allowed a **British Overseas citizen, British protected person or British subject** who arrived with a work permit to be given indefinite leave to enter has been abolished with effect from 5 March 2002.

British Overseas citizens, British protected persons or British subjects who arrive with work permits should be treated in accordance with Paragraph 128 - 135 of HC 395 in

the same way as ***British overseas territories citizens or British Nationals (Overseas)***

4.2. **Entry clearances endorsed "Independent Means"**

The concession which allowed a ***British Overseas citizen, British protected person or British subject*** who held an entry certificate endorsed "Retired Person of Independent Means" to be given indefinite leave to enter has been abolished with effect from 5 March 2002.

In line with ***British overseas territories citizens or British Nationals (Overseas)*** they should be treated in accordance with Paragraphs 263 - 270 of HC 395.

4.3. **Registration of British Overseas Citizens, British Subjects and British Protected Persons**

With effect from 30 April 2003, provision exists for qualifying British Overseas citizens, British subjects and British protected persons to register as British citizens. For further guidance see chapter 7 section 2 of the Immigration Directorate Instructions.

5. **ADMISSION OF UKPH HOLDING PASSPORTS ISSUED IN THE UK AND ISLANDS OR THE REPUBLIC OF IRELAND PRIOR TO 1.1.73**

Paragraph 16 of HC 395 states that a person in any of the categories below, who produces a United Kingdom passport issued in the UK or Islands or in the Republic of Ireland prior to 1.1.73, may be admitted freely unless his passport is endorsed to show that he is subject to control:

British National (Overseas);

British Overseas citizen;

British overseas territories citizen (formerly British Dependent Territories citizen);

British protected person; or

British subject by virtue of Section 30(a) of the British Nationality Act 1981 (who, immediately before the commencement of the 1981 Act, would have been a British subject not possessing citizenship of the United Kingdom and Colonies or the citizenship of any other Commonwealth country or territory).

5.1. **Re-entry of British Overseas citizens previously admitted for settlement**

Under Paragraph 17 of HC 395, a British Overseas citizen who holds a United Kingdom passport, wherever it was issued, and who satisfies the immigration officer that he has, since 1 March 1968, been admitted for settlement should be given indefinite leave to enter. The limit of two years outside the United Kingdom, set out in Paragraph 18, does not apply in such a case. This provision is extended outside the Rules to British Subjects and British protected persons by virtue of 30(a) of the British Nationality Act 1981.

Further guidance is provided in *Chapter 1, Section 3, Annex M* to these instructions.

See *Chapter 1, Section 1* for persons claiming to have the right of abode.

6. UKPH ARRIVING FOR SETTLEMENT OR EMPLOYMENT WITHOUT THE APPROPRIATE ENTRY CERTIFICATE OR WORK PERMIT

UKPH, including British protected persons and British subjects who are subject to control should be refused leave to enter if they arrive for settlement or employment and do not have the requisite entry certificate or work permit. This instruction should be followed even if such persons have arrived by indirect routes or from other countries where they have temporarily settled.

6.1. Removal of UKPH refused leave to enter

Removal of any UKPH following refusal of leave to enter should not be carried out without ensuring that the person is assured of entry in the country to which they are benign removed. Further assistance maybe sought from the Airline Liaison Officer via the Carriers Liaison Unit or the relevant High Commission/Embassy in London. Cases of doubt should be referred to BCPI.

6.2. Signal in passport of UKPH refused leave to enter

As the refusal signal could prejudice the admission of the UKPH to a third country, the passport should not be signalled without authority from BCPI.

6.3. Holders of entry certificates and work permits

UKPH who, if refused leave to enter would have a right of appeal before removal, should not be served with notice of refusal without authority from BCPI. They should be served with Form IS 81 at an early stage in the examination and the facts reported immediately to BCPI, as set out below, together with an indication of the further enquiries being made. It should be remembered that notice of leave to enter or notice of refusal of leave to enter must be given within 24 hours of the conclusion of the examination or further examination.

6.4. Endorsement in passport of UKPH refused leave to enter when coming for settlement without entry certificate

When refusal of leave to enter has been authorised and removal directions agreed the passport should not be endorsed with the usual refusal signal; instead, a manuscript endorsement should be made in the passport as follows:

"The holder will be admitted to the United Kingdom for settlement when issued with an entry certificate for that purpose by the British High Commission/Embassy.

Immigration Officer.....

Date..... Port....."

6.5. Information to be supplied to BCPI

To ensure that cases of refusal receive proper consideration at BCPI it is essential that accurate information should be supplied promptly:

- * name as in passport with any alias or alternative spelling;
- * date and place of birth, and sex;
- * nationality and citizenship;
- * passport number, date and place of issue and validity;
- * re-entry facilities for any other country;
- * whether required to leave or deported from country of residence;
- * whereabouts of close members of family;
- * High Commission reference number (this is usually at the top of page 31 of the passport);
- * funds;
- * details of journey to the United Kingdom; this should include details of any carrying company, acceptance in countries en route, method of exit and relevant dates;
- * any particular features which would merit compassionate consideration, e.g. state of health etc.

7. REMOVAL DIRECTIONS IN RESPECT OF UKPH ARRIVING FROM CERTAIN COUNTRIES

In accordance with visa abolition agreements between the United Kingdom and the countries listed below, the holder of a United Kingdom passport should not be returned to any of those countries if refused entry to the United Kingdom after arriving from the country concerned.

"Arriving from" in this context includes land transit through the countries but not where a passenger has come here in an aircraft which merely landed in that country in transit.

For this purpose, "United Kingdom passport" includes those held by British Overseas citizens, British Nationals (Overseas), British overseas territories citizens, British protected persons or British subjects by virtue of Section 30 (a) of the 1981 Act.

The countries concerned are:

Belgium	Finland	Netherlands
Bolivia	Iceland	Norway
Denmark	Luxembourg	Sweden

When a person holding a United Kingdom passport arrives from one of these countries and does not qualify for entry to the United Kingdom, reference should be made to BCPI before removal.

8. BRITISH PASSPORT HOLDERS WHO DO NOT HAVE A SOVEREIGN TERRITORY TO RETURN TO

In all cases where leave to enter is refused to British Overseas citizens (BOCs) or British protected persons (BPPs) who do not have a sovereign territory to return to, a report should be submitted to BCPI to request authority for removal.

9. DISCRETIONARY LEAVE AND "LIMBO"

In some cases a BOC will claim that his nationality obliges the UK to allow him to remain. In considering such cases we must be aware that no country routinely accepts non-citizens and that we cannot force a BOC to go somewhere else. There is a balance between those who genuinely find themselves with nowhere to go and those seeking to circumvent the Immigration Rules.

UKPH applicants who make an application for exceptional LTR/ILR and have no claim to remain under the Rules are to be refused unless there are compelling compassionate circumstances present or there is clear evidence of non-returnability. (See paragraph 9.1).

Applications made for a purpose not covered by the Rules should be refused under paragraph 322(1). This will attract the right of appeal if the application is in time.

9.1. Granting discretionary leave

Discretionary leave for a period of 6 years (3 years followed by 3 years) may be granted to British Overseas citizens and other UKPHs only if one of the following factors are present:-

- There is clear evidence of compassionate circumstances. This should be assessed according to the individual merits of the case but discretion would normally only be granted in wholly exceptional circumstances. Cases should not be agreed below Senior Caseworker level.

or

- There is clear evidence of the persons non-returnability. This should take the form of a letter from the appropriate authorities of the country of normal residence confirming the person's non-returnability, e.g. a refusal to issue a re-entry visa. The applicant should also be asked for a copy of his/her application to those

authorities if available. Cases should not be agreed below Senior Caseworker level.

Subsequent grants, of exceptional leave, including the grant of ILR, may be approved at EO level if the circumstances remain the same.

In all cases the onus is on the applicant to provide the necessary evidence. Prolonged enquiries are to be avoided. All relevant questions should be asked in a single letter of enquiry. Failure to reply to such a letter within 4 weeks should trigger the usual reminder followed by a refusal if there is still no reply after a further 28 days.

A person who refuses to apply for a re-entry visa to the country in which he is normally resident should not be given discretionary leave. The expectation must be that UKPHs will apply for the equivalent of returning resident or settlement visas and those who manage to obtain these should not be granted discretionary leave.

There will be cases where a visit visa is issued to enable a compassionate or other visit to take place. In these circumstances it would be wrong to withhold discretionary leave, providing they are able to produce evidence as set out above to satisfactorily demonstrate that they are not returnable to their country of origin **for the purpose of settlement**. This applies equally to first time applicants and those who have already had XLTR for a number of years, and have since been issued with a visit visa. Where a person has held XLTR for a number of years the evidence of the refused settlement visa should be recent. All cases where a visit visa has been issued should be referred to at least Senior Caseworker level.

ILR may be granted after 6 years have been spent in this category assuming the circumstances remain the same. The initial grant of discretionary leave should be for 3 years, followed by a further 3 years and, after 6 years, ILR.

9.2. No right of appeal and dismissed appeals

In cases where UKPHs fail to embark after refusal where there is no right of appeal or where there is a right of appeal and the appeal has been dismissed, the usual warning letter should be sent and the file should be passed speedily to EPU for deportation consideration.

9.3. Applying the limbo policy

The so-called limbo policy is applicable only after the exhaustion of all the usual administrative processes, including deportation. Only after EPU have decided that further deportation action is not appropriate or feasible, or illegal entry action has been abandoned, should consideration be given to applying the limbo policy.

If it is decided that the status of the UKPH should not be regularised, the applicant should be notified in writing of their position under the limbo policy. **ANNEX C provides a copy of a stock letter which may be used for this purpose.** The applicant has no right of appeal against the decision not to regularise their stay.

10. HOLDERS OF BRITISH NATIONAL (OVERSEAS) PASSPORTS EXPELLED FROM CERTAIN COUNTRIES

When a British National (Overseas) passport holder who is normally resident in Hong Kong arrives at a United Kingdom port having been expelled from a country listed in paragraph 7 above, the following procedures should be taken **if he is to be refused entry**:

- * Provided that the passenger has arrived **direct** from one of these countries, that there is evidence to show he has been expelled from that country and that his length of stay in that country is such that he cannot be returned to any other European country in which he may have previously resided, the Port Inspector may authorise his removal **at public expense**. In such cases, a refusal of leave to enter report should be submitted, marked for the attention of Border Control Policy Implementation. Removal should be effected on a **direct** flight to Hong Kong.
- * As soon as firm arrangements have been made, the chief immigration officer at the port of embarkation should send a telex message to the Immigration Office at Kai Tak Airport, Hong Kong (telex: dial 802 76123) giving flight details, the passenger's personal particulars, details of his arrival in the United Kingdom, the cost of the air ticket from the United Kingdom to Hong Kong and stating that he is being returned to Hong Kong at public expense. If it is not possible to send a telex, a brief note giving the information should be enclosed with the passport.
- * The passport should be placed in an envelope with a copy of the telex or the note. The envelope should be addressed to the Immigration Officer, Hong Kong, and handed to the aircraft captain. The captain should be requested to ensure that the envelope is handed over to the relieving captain if a crew change takes place during the journey and that it is not, under any circumstances, returned to the passenger.

These arrangements are intended to enable the Home Office to obtain from the Hong Kong Government repayment of the cost of detention and repatriation.

11. IMPOUNDING UNITED KINGDOM PASSPORTS

A United Kingdom passport should not be impounded if properly issued and held, and requests by other agencies to impound a passport should not be complied with except on instructions from BCPI.

It should be noted that there is nothing to prevent a person **entitled** to a United Kingdom passport from holding both a United Kingdom passport and a passport granted by another government. It should also be noted that a person may be issued with a second passport where, for example, a visa endorsed in the first passport by one country renders it invalid for travel to another country.

Passports wrongly issued or held, or forged or falsified passports may, however, be impounded. If, however, a person holding a false or forged passport is about to embark, care should be taken lest the impounding jeopardises the acceptance of the passenger in the country of destination.

All impounded passports should be date-stamped to show the date when and port at which they were impounded and sent, with an accompanying report, to NDFU.

12. BRITISH CONSULAR EMERGENCY PASSPORTS

In certain circumstances where there is insufficient evidence or it is considered undesirable to issue a standard passport, an Emergency Passport may be issued to a British citizen by a British Consular or High Commission post abroad or by the Governor of a dependent territory, for a single journey to the United Kingdom or to some other part of the Commonwealth.

An Emergency Passport may also be granted to the foreign or Commonwealth wife of a British citizen who has, herself, applied for registration as a citizen.

These passports are in single page form and show the country of destination and the nominal nationality of the holder. Where the destination is shown as the United Kingdom such passports would only be granted to persons with the right of abode in the United Kingdom. Immigration officers should therefore admit all holders of such documents even where the validity of the document has expired.

These passports should be impounded at the port of arrival and form IS 116 issued if the holder is subject to control.

12.1. Disposal of impounded Emergency Passports

British Consular Emergency passports impounded at the ports should be sent at the end of each week to the Public Records Office, United Kingdom Passport Service, Peterborough Passport Office, Aragon Court, Northminster Road, Peterborough PE1 1QG.

If, however, a report on a passenger is submitted, any documents impounded from the passenger should be attached to the report. For security, these documents should be placed in an envelope, clearly marked to indicate its contents, before attachment to the report.

12.2. Impounded Emergency Certificates granted by overseas representatives of the Irish Republic

Impounded Emergency Certificates granted by overseas representatives of the Irish Republic should be sent to the Aliens Branch, Department of Justice, Dublin.