HOME OFFICE

British Nationality Law

Discussion of possible changes

Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty
April 1977

LONDON
HER MAJESTY'S STATIONERY OFFICE
60p net

Cmnd. 6795

CONTENTS

PREFACE

The Case for Change

There have been many changes in British society and in this country's role in the world since the British Nationality Act which provides the basis of our citizenship was passed in 1948. The law has been amended on numerous occasions so that it is in some respects complicated and obscure. Moreover, because Britain is no longer an Imperial power the all-embracing concept of nationality associated with this role, including the citizenship of the United Kingdom and Colonies, is no longer appropriate. It follows there is need now to examine how our nationality law can be simplified and brought up-to-date.

Shortly after taking office the Government, in accordance with the Labour Party Manifesto of February 1974, set up a group to examine what should be done. This discussion document is based largely on their work.

The Government do not intend to introduce early legislation on the subject. They recognise that there is room for differing views both on the principles and details of a new scheme, and they think it right to give ample time for study and discussion of the ideas in the document, which would affect everyone in this country and many people overseas. The Government have themselves reached no firm conclusions on many of these ideas. But where they are at present inclined towards a particular course the document says so.

The law of nationality evolved slowly and it is only comparatively recently that it has had a statutory basis. The Government are anxious to ensure that any revision of the law should provide a system which is both satisfactory and lasting; and that in removing difficulties and grievances which changes in the nature of the Commonwealth since 1948 have placed on the system then introduced, it should not create fresh difficulties. This is a complex task requiring time for full consideration of all the issues involved.

The main ideas canvassed in the document are summarised below. They are designed to put right the main defect in our present law. This is that our present citizenship of the United Kingdom and Colonies, as its name implies, relates both to the United Kingdom and overseas territories; it does not identify those who belong to this country and have the right to enter and live here freely; in consequence it prevents the United Kingdom from basing its immigration policies on citizenship. Our citizenship is in these respects different from the citizenships of many other countries including our partners in the European Community.

Possible Changes

Two new citizenships

In *paragraphs 13–16* it is suggested that the present citizenship of the United Kingdom and Colonies might be replaced by two citizenships—a **British Citizenship** for those who have close ties with this country, and a **British Overseas Citizenship** which would be held by the remainder of those persons who are now citizens of the United Kingdom and Colonies.

People who would become British Citizens

It is suggested that British Citizenship should be conferred, in general, on those citizens of the United Kingdom and Colonies who were born, naturalised or registered here (or in the Channel Islands or Isle of Man); on those who hold that citizenship by descent and have the right of entry; and on those citizens of the United Kingdom and Colonies and British Protected Persons from dependencies or former dependencies (including those from East Africa) and British Subjects without Citizenship, who have settled in this country for a specified period (*paragraphs 19–26*).

It would be the intention that British Citizens—and only British Citizens—should have an unqualified right of free entry to the United Kingdom; but there are some people who now have such a right who would not become British Citizens under these proposals, and there might be a case for allowing them to retain this right for their lifetimes (*paragraphs 27–29*).

Movement within the European Community

The present definition of "United Kingdom national" for European Community purposes would need to be redrawn, in consultation with our partners in the Community, so that in general all British Citizens would have the same freedom of movement within the territory of the Community (*paragraph 30*).

Transmission to children born abroad

It is suggested that women, as well as men, should be able to transmit their citizenship to their children born abroad, but that transmission should be generally confined to the first generation so born (*paragraphs 38–46*).

Acquisition by virtue of marriage

Under the present nationality law of the United Kingdom, a woman who marries a man from this country has the right to acquire her husband's citizenship. But a man from overseas who marries a woman from this country has no such right. The document discusses whether the law for acquiring citizenship by virtue of marriage should be altered to treat both sexes equally. It makes some reference to the laws of other countries in this field (*paragraphs 48–50*).

Naturalisation

The question whether there should be any change in the requirements for the grant of naturalisation, for example as to the standards of character and knowledge of the language, is discussed in *paragraphs 51–60*.

Dual nationality

Our present law imposes no restrictions on the holding of dual nationality. *Paragraphs 61–65* mention some of the complexities arising from dual nationality and discuss what changes might be made.

British Overseas Citizenship

It is suggested that British Overseas Citizenship might be conferred on those citizens of the United Kingdom and Colonies who were born, naturalised or registered in an existing dependency, or whose fathers were so born, naturalised

or registered. This status would also be conferred on those other people who are now citizens of the United Kingdom and Colonies or British Protected Persons but who would not become British Citizens. As a general rule entry to a dependency would be limited to those who were British Overseas Citizens by virtue of a connection with it. And British Overseas Citizenship would not carry with it the right of entry to the United Kingdom (*paragraphs 67–70*). It would be necessary, so that British Overseas Citizenship should in the longer term be related to dependencies only, to make the rules for acquisition and transmission more restrictive than those for British Citizenship (*paragraphs 71–74*).

The special question of United Kingdom Passport holders from East Africa

These arrangements would not affect the obligation which the Government have assumed towards holders of United Kingdom passports from East Africa, and the special voucher system would continue (*paragraph 70*).

This document is published as part of the process of open Government. Members of the public or representatives of interested bodies who wish to express their views on any of the matters discussed in the document are invited to write to the Home Office, Nationality Division (A.H. Room 1606), Immigration and Nationality Department, 40 Wellesley Road, Croydon CR9 2BY.

BRITISH NATIONALITY LAW
DISCUSSION OF POSSIBLE CHANGES

INTRODUCTION

1. The Government have been reviewing the working of the British Nationality Acts. The chief of these was passed as long ago as 1948, and much has happened since then to suggest that a new nationality law is needed. A discussion paper cannot cover every problem which arises on this complicated subject; but the Government hope that the paper will serve to indicate the major issues for discussion and eventual decision.

2. The paper does not seek to discuss such matters as the subtle differences between nationality and citizenship but concentrates on practical issues. At present we have a citizenship which does not define those who have a close connection with the United Kingdom; in this respect we are at a disadvantage compared with most other countries.

THE CURRENT NATIONALITY LAW

The British Nationality Act 1948

3. Our present system of citizenship is unsatisfactory in several ways. To understand it fully, it is necessary to describe how the 1948 Act came to be. Before 1 January 1949 when the 1948 Act came into force, everyone who owed perpetual allegiance to the British Monarch (for example, by birth in the United Kingdom, a Dominion or a Colony) was a British subject. There were also large numbers of people to whom British protection had been granted (British Protected Persons). But the need to identify the people of each self-governing Dominion by means of a distinct national status more narrowly defined than British nationality was increasingly felt in those countries. Eventually, in 1946, Canada created its own citizenship, although still within the framework of British subject status. After a conference held in London in 1947, the other independent countries of the Commonwealth followed suit, as have other countries on achieving their independence within the Commonwealth. Under the new arrangements, each country was to determine who were its citizens, to declare those citizens to be British subjects, and to recognise as British subjects the citizens of other Commonwealth countries. However, each country was left free to decide what this recognition should entail, so that the content of British subject status has come to vary widely within the Commonwealth.

4. The Act of 1948 introduced these principles into United Kingdom law. It created a citizenship of the United Kingdom and Colonies, with the continuing status of British subject, and laid down rules for its acquisition. It was relatively simple to provide how this status should be acquired in future, but it was more difficult to decide which of the British subjects then alive should become citizens of the United Kingdom and Colonies. The Act gave that citizenship not only to British subjects then alive who had ties with the United Kingdom, the Channel Islands and the Isle of Man, or with a Colony, but also gave it to some British subjects who did not, for one reason or another, acquire the citizenship of another Commonwealth country. But most of the Commonwealth countries which were then independent had yet to pass their citizenship laws, and the 1948 Act

therefore provided that British subjects who had ties with those countries should be regarded as *potential* citizens of them. These people remained British subjects but had to wait for a final determination of their status until the countries with which they were associated were deemed to have passed citizenship laws (or until they acquired citizenship of another Commonwealth country or of the Republic of Ireland in some other way, or became aliens). Only if they then failed to obtain a citizenship would they become citizens of the United Kingdom and Colonies. In the meantime they were to hold the temporary, non-transmissible, status of British Subject without Citizenship.

5. The Act also provided that all those holding citizenship of the United Kingdom and Colonies or of a Commonwealth country should be regarded in United Kingdom law as British subjects (or Commonwealth citizens—the terms were to be synonymous), and exempted them from the disabilities of aliens. Citizens of Eire were similarly exempted, and those who were alive when the Act came into force and had been British subjects with ties with the United Kingdom were enabled to give notice to remain so. The Act made it easy for a citizen of a Commonwealth country who had come to live in the United Kingdom to acquire citizenship of the United Kingdom and Colonies; he had merely to show that he had been ordinarily resident here for 12 months. Other provisions of the Act enabled British women who married foreigners to keep their citizenship on marriage (before the Act they had ceased to be British subjects automatically), and gave women from other countries who married citizens of the United Kingdom and Colonies the right to acquire their husband's citizenship, on application. But British women could not in any circumstances transmit their citizenship to their children born overseas, and the husbands of British women had no right to acquire their wives' citizenship. The Act was followed by an Order which made new arrangements for the status of British Protected Persons.

6. It is worth emphasising at this point that the 1948 Act dealt with nationality and citizenship but not with the control of immigration to the United Kingdom. At that time British subjects/Commonwealth citizens were entitled to enter and leave the United Kingdom freely; it was not until 1962 that any of them became subject to immigration control.

Changes since the 1948 Act

7. The scheme set up under the Act has met with various difficulties. First, the status of British Subject without Citizenship, which was intended to be transitional, has persisted. This is because India and Pakistan enacted citizenship laws in 1950 and 1951 which withheld citizenship from many people who had derived their status of British subject from their connection with those territories and who were regarded by the British Government at the time of the passing of the 1948 Act as potential citizens of those countries. The United Kingdom did not feel able to grant citizenship of the United Kingdom and Colonies to all these people from India and Pakistan who had failed to acquire such citizenships. They often had no connection with the United Kingdom or a Colony then existing. The status of British Subject without Citizenship has therefore remained in existence longer than originally expected, but as people have obtained other citizenships they have ceased to hold it, and since it relates to people born before 1949, the numbers are diminishing.

8. Other problems developed as more countries of the Commonwealth became independent. Some of these countries did not, at independence, confer their citizenship on all the citizens of the United Kingdom and Colonies who had ties with them. Kenya, for instance, did not give its citizenship automatically to citizens of the United Kingdom and Colonies born in Kenya before independence, unless one parent had been born there. There were similar problems with British Protected Persons linked with some territories. So significant numbers of people, for instance in East Africa and Malaysia, did not acquire local citizenship on independence and remained citizens of the United Kingdom and Colonies or British Protected Persons even though they had no close connections either with the United Kingdom or with one of the remaining Colonies. Often they hold no other citizenship.

9. Over the years the 1948 Act has been amended about 40 times. There have been various reasons for this. A large number of Colonies have become independent and it has been necessary to withdraw citizenship of the United Kingdom and Colonies from people who acquired citizenship of the newly independent country but had not at the same time a close connection with the United Kingdom or a continuing Colony. Other amendments have been needed when countries, for example South Africa and Pakistan, have left the Commonwealth, to provide that although their nationals were henceforward foreigners in United Kingdom law they were to continue, for a limited time, to retain their eligibility to acquire our citizenship by registration as if they had continued to be Commonwealth citizens, rather than by naturalisation. Important amendments in the qualifications for acquiring citizenship of the United Kingdom and Colonies were made in the Commonwealth Immigrants Act 1962 and the Immigration Act 1971. Apart from these amendments there have been others, for example to meet the United Kingdom's obligations under international agreements. As a result of these numerous amendments British nationality law has become difficult to follow.

10. The most serious drawback to the status of citizen of the United Kingdom and Colonies is that it does not provide a ready definition of who has the right of entry to the United Kingdom. In most other western countries, citizens—and citizens only—automatically have the right of entry. Under our system, a citizen of the United Kingdom and Colonies may not have any close ties with the United Kingdom, or even with a remaining Colony. So, when successive Governments have found it necessary to control immigration from the Commonwealth, they have felt obliged to distinguish between the citizens of the United Kingdom and Colonies whose close ties with the United Kingdom gave them a claim to be freely admitted here, and the remainder. These distinctions within a common citizenship have been hard to follow. They have caused confusion and have encouraged the belief that our immigration laws contain elements of racial prejudice. The Immigration Act 1971 increased the confusion, since not only did distinctions within the citizenship of the United Kingdom and Colonies continue, but the right of entry was also conferred, to a limited degree, on certain citizens of other Commonwealth countries. As a result, for example, certain Australian and Indian citizens may have a right of entry to the United Kingdom which some citizens of the United Kingdom and Colonies do not possess.

11. As a background to discussion of all the issues, it will be useful to give some idea of the number of people involved. Altogether there are about 950

million people throughout the world who are "British subjects" in our law. Most of these are, of course, citizens of independent Commonwealth countries. Of the rest, 56 million are citizens of the United Kingdom and Colonies by reason of their close connection with the United Kingdom itself and are exempt from United Kingdom immigration control. A further 3.3 million (of whom 2.6 million are in Hong Kong) are citizens of the United Kingdom and Colonies by virtue of a close connection with an existing dependency. These do not have a right of entry to the United Kingdom, but they do almost invariably have a right of admission to a dependency. There are, however, a number of citizens of the United Kingdom and Colonies—about 190,000 mostly in Malaysia, India and Africa—who, deriving their status from former dependencies, have no such rights. (The numbers in East Africa are declining as a result of admission here under the special voucher scheme which the Government intend to continue). Then there are thought to be some 3 million citizens of the United Kingdom and Colonies (1 million in this country) with *dual* nationality who are exempt from United Kingdom immigration control, and a further 1.3 million (mostly in Malaysia) who are subject to such control. Many of those citizens of the United Kingdom and Colonies without rights of entry to either the United Kingdom or a dependency are, of course, well established in their countries of residence even when they do not have dual citizenship. Finally, it should be added that there are believed to be about 250,000 British Subjects without Citizenship, and over 274,000 British Protected Persons (the majority in the Solomon Islands). Nearly all of these people are living abroad and are subject to immigration control. About 120,000 Irish citizens have made formal claims under section 2 of the 1948 Act to remain British subjects (see paragraph 5 above).

The present situation

12. The Act of 1948 reflected the situation of the United Kingdom at that time. The country was still an Imperial power; it had direct responsibility for very large populations in Colonial territories. The status of British subject, held by all who had links with the Commonwealth, still seemed meaningful and relevant. The speed at which Colonial territories were to become independent was not then generally apparent. Women's status lagged considerably behind that of men. All these things have changed, and the cumulative effect of the changes has been that the citizenship laws of the United Kingdom no longer accurately define those who have the normal attributes of citizenship. This in turn leads to considerable uncertainty and misunderstanding, both at home and overseas, about the United Kingdom's obligations to its citizens.

THE NEXT STEP—A NEW SCHEME OF CITIZENSHIP

13. A new scheme of citizenship should reflect the strength of the connection which various groups of people have with the United Kingdom in the world today. First, there must be a more meaningful citizenship for those who have close links with the United Kingdom (including, for this purpose, the Channel Islands and the Isle of Man) and who can be expected to identify themselves with British society. Those holding this new citizenship might be known as British Citizens.

14. Such a citizenship would avoid the present difficulties described in paragraph 10 of defining which people are to have the unqualified right of entry to this country. But it might then be necessary to provide protection for the rights of entry now enjoyed by people who did not qualify for the new citizenship, and this is discussed in paragraph 29.

15. Second, arrangements must be made for those people who are now citizens of the United Kingdom and Colonies (or British Protected Persons), but who do not have such close ties with the United Kingdom as to become British Citizens. These people too would have to be given a new status. To leave those of them who are citizens of the United Kingdom and Colonies with that status when many of them have little or no connection by birth, ancestry or residence with the United Kingdom or any Colony would prolong a misleading and unsatisfactory feature of the present situation. Instead, both they and the British Protected Persons might be known as British Overseas Citizens, thus bringing their status more closely into accord with present-day circumstances. The aim might be to limit this citizenship eventually to those who have the right of entry to a dependency. British Overseas Citizenship would then carry with it the right of entry to a dependency just as British Citizenship would carry with it the right of entry to the United Kingdom. But this, it must be stressed, would be a long-term aim.

16. With the conferment of British Citizenship on some citizens of the United Kingdom and Colonies, and British Overseas Citizenship on the remainder, citizenship of the United Kingdom and Colonies would disappear.

17. British Citizens and British Overseas Citizens would be eligible to hold passports describing them as such and the British Government would be entitled to afford the same consular protection to holders of both citizenships.

18. Some possible arrangements for a British Citizenship and a British Overseas Citizenship are discussed in detail below. For both citizenships, these would fall into two parts:—

(i) arrangements for deciding which citizens of the United Kingdom and Colonies (and other persons eligible to hold British passports) alive when a new scheme came into force were to become either British Citizens or British Overseas Citizens—that is, the *transitional arrangements:* and

(ii) the arrangements for acquiring the citizenship by birth, naturalisation etc., after the scheme was introduced—that is, the *permanent arrangements.*

A BRITISH CITIZENSHIP

Transitional arrangements

(a) Groups of citizens of the United Kingdom and Colonies who might become British Citizens

19. As indicated above, British Citizenship would be for those citizens of the United Kingdom and Colonies with close ties with the United Kingdom. Clearly, therefore, the citizenship would be conferred at the outset on those who are now citizens of the United Kingdom and Colonies because they were

born here, adopted here, or acquired citizenship here by some voluntary act such as applying for naturalisation or registration.*

20. Then there are those citizens of the United Kingdom and Colonies who, though not born, naturalised, etc., here themselves, hold their citizenship because of the birth or naturalisation of a parent or grandparent here, or who for somewhat similar reasons have the right of entry. Where family ties are as close as this, these people too might become British Citizens.

21. There are also those who acquired citizenship of the United Kingdom and Colonies overseas (for example, because they were born in a dependency or a former dependency), have remained citizens of the United Kingdom and Colonies, and have made their homes here. The largest element in this group is probably from East Africa. Many of these people have been admitted to this country specifically for settlement under the special voucher scheme because they were under pressure in their country of residence, had not acquired local citizenship and could not, for instance, work there. In most cases they could not have gone elsewhere. Their future lies here. They have established a tie with this country through their residence here on a permanent basis and this should be recognised by conferring British Citizenship on them.

22. Mere presence alone on a specified day, however, would probably not be enough to qualify for citizenship. The length and nature of residence would have to be laid down, establishing that the link was a real one. British Citizenship might, for instance, be conferred only on those citizens of the United Kingdom and Colonies from overseas who had been resident in the United Kingdom for a specified time and were free of any conditions on their stay at the end of that time. Any qualification of this kind would, however, have to be simple and easily proved, since otherwise the person concerned might find it difficult, or his descendants might, to prove that he had become a British Citizen under the transitional arrangements. For those citizens of the United Kingdom and Colonies who could not fully meet the requirements on the specified day, it might be right to make some special arrangement by which they could later acquire British Citizenship.

23. A further group might also be made citizens. These are women citizens of the United Kingdom and Colonies who would not qualify for British Citizenship in their own right, but whose husbands would become British Citizens. This would cover, for instance, a woman who is a citizen of the United Kingdom and Colonies by virtue of her birth in Hong Kong, who is married to a man who is a citizen of the United Kingdom and Colonies by virtue of his birth in the United Kingdom. The numbers would not be large.

(b) **Other groups of persons eligible to hold British passports who might become British Citizens**

24. Two other groups of British passport holders might also qualify for British Citizenship if they have ties with the United Kingdom through their residence here. These are British Protected Persons and British Subjects without Citizenship. The residential ties would be defined for them in the same way as for the citizens of the United Kingdom and Colonies from overseas (see paragraph 22 above).

* Excluding those who, though they are registered in the United Kingdom, are not, under our present law, exempted from immigration control.

25. The British Protected Persons who would qualify for citizenship in this way would for the most part have come to this country from East Africa for permanent settlement, entering under the special voucher scheme. They were admitted because they faced the same problems as citizens of the United Kingdom and Colonies there, and for the purposes of the new citizenship there would seem to be no reason to treat them differently when they are settled in the United Kingdom.

26. The origins of the status of British Subject without Citizenship are described above in paragraphs 4 and 7. The numbers who would be eligible for citizenship through their residence in the United Kingdom must be very small since British Subjects without Citizenship who have made their home in the United Kingdom have been eligible for registration as citizens of the United Kingdom and Colonies since 1949 (for most of the time as of right).

The impact of these changes on the right to live in the United Kingdom

(a) **Those who would acquire the right of entry for the first time**

27. British Citizenship would carry with it the right of entry to this country. So everyone who became a British Citizen under the transitional arrangements would have such a right of entry. But most of these people are already exempt from immigration control, and conferring British Citizenship on them would not affect immigration to this country.

28. There are, however, three groups who are not free from immigration control at present; they would therefore acquire the right of entry for the first time. There are those citizens of the United Kingdom and Colonies from overseas who have been resident here for less than five years, and their wives. But they have in most cases already been accepted for permanent residence. To grant them citizenship would not commit the United Kingdom to accepting any new group of permanent residents. Then there are the British Protected Persons and the British Subjects without Citizenship who have made their homes here; a few of the British Subjects without Citizenship are exempt from immigration control but generally they and the British Protected Persons are not exempt. But they, like the citizens of the United Kingdom and Colonies mentioned above, have for the most part already been accepted for permanent residence. They are here to stay; and to grant them British Citizenship with the right of entry to the United Kingdom would not involve any new immigration commitment.

(b) **Possible arrangements for those who have the right of entry but would not become British Citizens**

29. Some people who now have the right of entry to this country under the Immigration Act 1971 would not become British Citizens if the law were amended as suggested above. These are:—

(i) citizens of a Commonwealth country with a parent (in practice almost invariably the mother) who was a citizen of the United Kingdom and Colonies by birth in the United Kingdom;

(ii) women Commonwealth citizens who have the right of entry at present because, and only because, their husbands have the right of entry;

(iii) citizens of the United Kingdom and Colonies from overseas who were at one time settled in the United Kingdom and resident here for five years, but who could not meet the residence qualifications for British Citizenship.

Although it is intended that only British Citizens should have the right of entry to the United Kingdom, there might be a case for making some exceptions for the people in these groups and allowing them to retain their present right of entry for their lifetimes.

British Citizenship and the right of free movement within the European Community

30. The establishment of a British Citizenship would make it necessary to re-examine in consultation with our partners, the present definition of United Kingdom national for European Community purposes. If the transitional arrangements suggested above were to be enacted, there would be some people who would become British Citizens but who have not the right of free movement under the definition now in force. These would include those citizens of the United Kingdom and Colonies, British Protected Persons and British Subjects without Citizenship, who have been resident in the United Kingdom for less than five years and are settled here.

Permanent arrangements

31. These would be the arrangements for acquiring British Citizenship by birth, descent or a voluntary act such as applying for naturalisation, once a new scheme of citizenship had come into force. There is a wide range of possible courses to be considered. Some ideas are set out below.

(a) **Citizenship by birth**

32. The United Kingdom, in common with the USA, Latin American and many Commonwealth countries, at present confers citizenship on everyone who is born in the United Kingdom (or indeed in the Colonies), irrespective of their parents' citizenship. In contrast, Continental countries confer their citizenship on those born in their territories only if the child's parent is himself (or herself) a citizen of the country. These two methods of conferring citizenship are known respectively as the *ius soli* and the *ius sanguinis*.

33. The *ius soli* method—traditionally used in the United Kingdom—is simple and inclusive. Anyone who is born here is a citizen unless his father is a diplomat of another country. This encourages the integration of people from abroad. The child born here to, say, Polish or Indian parents is a citizen of the United Kingdom and Colonies from birth; he is encouraged in this way to identify himself with this country. Under the *ius sanguinis* method he would have to take his parent's nationality, and could acquire our citizenship only by some voluntary act, such as naturalisation. It is possible, under such a system, for successive generations to live in a country and never become citizens.

34. On the other hand, some people might think that the *ius soli* method is too generous. It confers citizenship indiscriminately on all who happen to be born here, even if, for instance, the mother is en route elsewhere. The problems caused by transient visitors can, however, be exaggerated; a child born here by accident is not likely, by and large, to exercise his claim to our citizenship. But it is true that we confer citizenship on children who, though born here, may

be brought up and live their lives abroad, and on children whose parents, though entirely unconnected with the United Kingdom, have arranged for the child to be born here to acquire citizenship for its possible usefulness later. On the whole the Government consider that the simplicity and inclusiveness of the *ius soli* method outweighs its drawbacks.

(b) **Citizenship by adoption**

35. Under the Adoption Acts 1958 and 1964 a child who is adopted in the United Kingdom (including, for this purpose, the Channel Islands and the Isle of Man) automatically becomes a citizen of the United Kingdom and Colonies if the person adopting the child is a citizen of the United Kingdom and Colonies, or in the case of a joint adoption, the man is such a citizen.

36. This principle might well be carried over into a new British Citizenship. But in the case of a joint adoption, it should suffice if either parent was a British Citizen. This would be in line with the Government's general policy of working towards equal treatment of the sexes.

(c) **Citizenship by descent**

37. Under United Kingdom law, as mentioned above, everyone who is born here is automatically a citizen. So the only people who are citizens by descent in our law are people born abroad who have some link with this country through their fathers, which gives them a claim to our citizenship. In looking to the future, there are two main issues to be considered. First, whether the present inability of a woman to transmit her citizenship to her children born abroad is justified. Second, how far citizenship by descent should be allowed to go—that is, how many successive generations born abroad should be allowed to have our citizenship.

Descent through the female line

38. In the past, nearly all countries allowed only men citizens to transmit their citizenship to their children born abroad. This was based on two arguments. First, countries were reluctant to see dual nationality proliferate—as would happen when nationals of two countries married and both were able to transmit their citizenship to their children. Second, in such "mixed" marriages it was thought that the man's occupation was crucial in deciding where the family would live. The man would tend to work in his own country rather than his wife's; the family home would therefore be established there; the children of the marriage would grow up there and would inevitably associate themselves more strongly with their father's country than with their mother's.

39. As to the first of these arguments, the United Kingdom has adopted a very tolerant attitude to dual nationality. The second argument is certainly no longer so powerful or so generally accepted. Family patterns are altering; the woman's interests can be as important as the man's in deciding where the family home should be; in any case, families are more mobile. These changes have led a number of countries, including West Germany, Canada and the USA, to permit their women citizens to transmit their citizenship on broadly the same terms as men. In the United Kingdom much has been done to end discrimination on grounds of sex, and the Government consider that the opportunity should be taken to do so in nationality law, by changing the rules for citizenship by descent in a new scheme of citizenship.

40. There are, however, some practical problems. It would not be difficult to legislate so that, from a certain date, women could transmit their citizenship on the same terms as men to children born after that date. But what about the children born before that date? Should they be granted citizenship, and if so, how?

41. To designate them all automatically as citizens, especially if the citizenship was back-dated to their birth, would cause difficulties. They might not want our citizenship; they might find that they had lost their other citizenship by having our citizenship thrust upon them. An alternative—favoured by the Government —would be to enable a mother who had become a British Citizen to apply for her citizenship for her children. They would then hold this citizenship from the date the application was granted. This arrangement might be for a limited period of, say, two years; this has been the practice in other countries which have changed their law recently in this way (*e.g.* Canada and West Germany).

The limits of citizenship by descent

42. Our present law not only confines to men the right to transmit citizenship, it also imposes conditions on the transmission of citizenship. There is no restriction on men citizens from this country transmitting their citizenship to the first generation born abroad. But beyond that, citizenship may be transmitted only in certain circumstances, for instance, if the father is in British Government service at the time of the child's birth, or if the child is born in a foreign (but not a Commonwealth) country and the child's birth is registered, within a limited time, at a British Consulate. There is no limit to the transmission of citizenship to further generations in these circumstances.

43. These arrangements have grown up in a somewhat haphazard fashion, and can lead to anomalies. It seems odd to many people that a child born in, say, the USA, can be given his father's citizenship of the United Kingdom and Colonies by Consular registration if his father was born abroad, but a child born in Canada in similar circumstances cannot. A child born in Australia to a British diplomat who was himself born overseas acquires his father's citizenship, but a child born there to a British businessman in similar circumstances does not. A new citizenship would provide an opportunity to place the rules for descent on a more rational basis.

44. There are various options. At one extreme, if the United Kingdom were to adopt the *ius sanguinis* method and confer citizenship on any child whose parent was a citizen, there could be no limits on transmission, no matter how distant were the child's direct connections with the United Kingdom. The United Kingdom has, however, been traditionally reluctant to extend its citizenship in this way; people have emigrated from this country in considerable numbers for at least the last 200 years, and the descendants of such people usually associate themselves with their country of birth, and not with the United Kingdom.

45. The other extreme would be to limit citizenship to the first generation born abroad and not allow people born overseas to transmit their citizenship to children born overseas. This might be necessary if, as is suggested, citizenship is to carry with it the right to enter the United Kingdom. Without such a measure there would be large and growing numbers of people abroad who

had the right to come to the United Kingdom at any time, but who might have scant connection with this country. The numbers would, of course, be all the greater if women as well as men could transmit their citizenship to their children born abroad.

46. But more and more people are spending part of their careers abroad and it might seem unfair if one member of a family who happened to be born when the family was temporarily overseas could not transmit his citizenship when his brothers (and sisters) who were born in the United Kingdom could do so. Difficulty would arise where such a person was in his turn temporarily abroad serving United Kingdom interests when his children were born. He might have few ties with the country of his own birth, or of his children's birth. It would be natural for him to want to transmit British Citizenship to his children born overseas. Further difficulty could arise where the person concerned had no claim to citizenship of the country in which he was born—as, for instance, is invariably the case with the children of diplomats—and so could not transmit the citizenship of that country to his children even if he wished to. The Government consider that as a general rule a new British Citizenship should not be transmitted beyond the first generation born abroad, but they recognise that some circumstances might justify exceptions.

(d) **Citizenship by voluntary act**

47. The present arrangements for acquiring citizenship by voluntary act, for example, registration and naturalisation, are extremely complicated and varied. Some people have an outright entitlement to registration—notably women who are, or who have at any time been, married to citizens of the United Kingdom and Colonies, and Commonwealth citizens who have been settled here continuously since 1 January 1973 and have completed five years' ordinary residence. Others can be granted citizenship at the discretion of the Home Secretary, provided they meet various conditions relating to residence, good character, knowledge of the language, and intentions as to residence in the United Kingdom; these include all foreign nationals and those Commonwealth citizens who do not qualify for citizenship as an entitlement. (There are special provisions for Pakistanis to be treated, for a limited time, as if they were still Commonwealth citizens when applying for citizenship.) There is also provision for Irish citizens, and for stateless persons connected with this country; and for certain people who have renounced citizenship of the United Kingdom and Colonies to resume it. The Home Secretary has virtually unrestricted powers to register any minor child as a citizen of the United Kingdom and Colonies, at his discretion. The discussion that follows does not cover all these various categories but concentrates on the areas where there are special problems.

Citizenship by virtue of marriage

48. As indicated above, under our present law, women who have at any time been married to citizens of the United Kingdom and Colonies are entitled to acquire their husbands' citizenship, on application. But men married to women citizens of the United Kingdom and Colonies have no such right to their wives' citizenship; they must apply in the usual way for registration or naturalisation.

49. This runs contrary to the Government's general policy of ending discrimination between the sexes. But there is considerable room for argument on how changes might be made. Registration on these grounds under the present law gives a woman the right of entry to the United Kingdom, and to extend the right to men in the same way would inevitably have repercussions on immigration; in particular, the possibility that bogus marriages might thereby be encouraged cannot be ignored. It is of interest that some other countries which have granted husbands rights similar to those enjoyed by wives to acquire nationality by virtue of marriage (for example, West Germany, Denmark and the USA) have found it necessary to place some restriction on the right to acquire citizenship in this way, *e.g.*, by a qualifying period of residence.

50. Four possible options, with some comments on them, are given below:—

(i) to give men married to citizens the same entitlement to citizenship which women who are married to citizens now enjoy. This would "level up" the sexes by enabling a woman citizen of the United Kingdom and Colonies to confer on her foreign husband the same benefit as a man can confer on his foreign wife, and would more adequately recognise the equal status of women in marriage. But such a provision could, as indicated above, have some undesirable consequences. Because any Commonwealth citizen or foreign national would be able to acquire citizenship—and the right of entry to the United Kingdom—simply through marriage to a British Citizen, there could be an encouragement to bogus marriages, particularly where a foreigner was aware of being in danger of deportation (which his acquisition of citizenship would prevent) and, more generally, to securing entry ostensibly for some temporary purpose but really with a view to marriage and permanent settlement. Accordingly, a provision of this kind might have to include a reserve power to refuse citizenship in certain circumstances;

(ii) to give spouses of both sexes married to citizens an entitlement to citizenship, but make this subject to a residence requirement of perhaps three years;

(iii) to treat spouses of citizens on exactly the same terms as other applicants for citizenship. This would mean that wives would have to qualify for citizenship in the same way that husbands do. It might be said that marriage should not of itself entitle anyone—male or female—to take his or her spouse's citizenship, particularly if the marriage no longer subsists, and that we should not assume that a spouse is automatically fitted for citizenship or that he or she is prepared to identify with this country; but that spouses of each sex should be treated on their merits;

(iv) to treat spouses of citizens on the same terms as other applicants for citizenship, but to give both sexes some concession in the matter of residence—perhaps by requiring only three years, instead of the normal five, for naturalisation. This would ensure that marriage to a citizen brought a real advantage without giving the unqualified entitlement which at present is conferred on women but not on men. This would be broadly in line with the approach which has been adopted by a number of other countries which have recently revised their nationality laws.

Citizenship by naturalisation

51. Under our present law, foreign nationals who seek naturalisation have to satisfy the Home Secretary, amongst other things, that they have resided here for at least five years; that they are of good character; that they have a sufficient knowledge of English; and that they intend, once naturalised, to remain here or linked to British interests abroad. Many Commonwealth citizens have an entitlement to citizenship and have to show only that they have been ordinarily resident here for five years. But increasing numbers are having to meet similar requirements—see paragraph 47—to those for naturalisation (Commonwealth citizens apply for registration, not naturalisation). There is no appeal against refusal of either naturalisation or registration.

52. There are three aspects of the procedure on which the Government will particularly welcome views—the good character requirement, the language test and the absence of an appeals system.

The good character requirement

53. The requirement that applicants for naturalisation must be of good character is long-established. Over the years, records of what constitutes good character have been carefully kept, and the doctrine has been modified from time to time as society's views of acceptable behaviour and attitudes have changed. But the requirement is imprecise. It is after all easier to say that someone is of good character than to analyse why this is so. Different people are bound to have different views of what constitutes good character. Every effort is made to treat applicants consistently and fairly in this matter, but it is not always easy to administer the good character requirement satisfactorily.

54. But, equally, it is not easy to devise an adequate substitute. One way would be to limit consideration of character to criminal and financial matters. It might be said that someone was acceptable for naturalisation who had never been convicted of a criminal offence (with some exceptions), who was not awaiting trial for any offence, and who was not an undischarged bankrupt or a person barred from acting as a director under the Companies Act. The excepted criminal offences might be, first, those which are "spent" under the Rehabilitation of Offenders Act 1974; and, second, offences which led to a custodial sentence of more than 30 months (and which cannot therefore be "spent" under the 1974 Act) where the applicant completed his sentence not less than 10 years before applying for naturalisation.

55. But there would obviously have to be some reserve power to deal with applicants who were unsuitable on grounds of national security or the preservation of law and order.

56. Even so, an objective test like criminal offences has its drawbacks. It cannot measure, for instance, whether a man's general behaviour makes him unacceptable to his fellow-citizens, even though he may have kept free of the courts. And, if a man makes himself unacceptable to his fellow-citizens in this way, he may be a full citizen in law but he will be a second-class citizen in fact. He will not enjoy the equal status that, by and large, naturalised citizens now possess, and the process of naturalisation may be devalued. Perhaps more

sophisticated objective tests are needed, or the concept of good character—loose and vague as it is—should be retained. The Government will welcome views on this matter.

The language test

57. The present law requires that applicants for naturalisation should have a sufficient knowledge of English (or, for discretionary registration, which was introduced in 1973, English or Welsh). Nowadays, it is usually sufficient for the applicant to have an adequate command of spoken English. Such factors as the age and ability of the applicant are taken into account in assessing this. Most countries have similar provisions in their naturalisation laws. It is, after all, difficult for a naturalised citizen to exercise his civic duties, for instance, to vote or sit on juries, if he does not understand the language of his adopted country. It is difficult indeed for him to be accepted as a sufficiently integrated member of our society if he cannot communicate with his fellow-citizens. Moreover, some knowledge of the language is an indication that the applicant has committed himself to living here and taking part in the life of the community.

58. Against this, however, it is argued that elderly applicants in particular can find it difficult to meet the language test. They may lead restricted lives, largely amongst their own fellow-countrymen, and the range of civic duties that they could effectively perform would probably be small. They may, nonetheless, be anxious to acquire citizenship, particularly if they are stateless or of uncertain nationality. One solution might be to keep the language test but give the Home Secretary some discretion to waive it in such cases.

An appeals system

59. As mentioned above, those who are refused citizenship by registration or naturalisation cannot at present appeal against the refusal. Admittedly, a decision to refuse citizenship usually has little immediate impact on the everyday life of the applicant; it does not affect his ability to stay in this country, and he is free, for instance, to own property. But refusal might prevent someone from entering a post, such as those in the Civil Service, which is restricted to those holding certain nationalities. A right of appeal could offer some help in such a case.

60. On the other hand, it is questionable whether it would be apt to have an appeals system if good character, assessed in each case by analysing all the factors involved, were to remain the criterion for citizenship. The diversity of circumstances encountered in applications is very wide. The judgements which have to be made in this area are essentially subjective, and matters of this kind are not easily justiciable. It is for consideration how far it would be an improvement to substitute the views of adjudicators for those of the Home Secretary and his advisers. Under the present system the standards applied in the generality of cases can be, and are, modified, and exceptions made to them, where this seems justified. But if good character were to be replaced by objective tests the scope of a right of appeal would be small. The only issues that would then come to an appeal would be the length of an applicant's residence in this country or his future intentions. Applicants who were refused on security and similar grounds could not in any case be given a right of appeal, because of the difficulty of disclosing in public the information that had led to the refusal.

(e) **Dual nationality**

61. United Kingdom law contains no bar on the holding of dual nationality. Of the citizens of the United Kingdom and Colonies who have other citizenships, some have obtained them by naturalisation in other countries, but the majority have them by reason of their descent. In particular, the close links between families in the United Kingdom and the Irish Republic have led to much dual citizenship. Most other countries place restrictions on the holding of other citizenships in addition to their own. Nearly all Commonwealth countries, for instance, withdraw citizenship from those who voluntarily acquire the citizenship of another country, taking the view that those who, of their own free will, acquire the citizenship of another country should lose their original citizenship since they have sought and obtained the protection of another State. Some of these countries made provision to this effect on first attaining independence, while others which formerly allowed their citizens to hold another nationality have changed their law. Equally, many countries require applicants for naturalisation to renounce their former nationality as evidence of their commitment to their new country. Others extend the ban on dual nationality further, to those who have acquired it involuntarily—say, through parents of different nationalities who are both able to transmit their citizenship. Usually such countries allow the child to remain a dual national until he is of age, and then he has to decide within a specified time which citizenship he intends to hold, and renounce the other; if he fails to make a choice he automatically forfeits the citizenship of the country concerned.

62. If the United Kingdom decided to tighten its law on dual nationality, there are thus various options:—

(i) a complete ban on dual nationality where it arises either voluntarily (by naturalisation, etc.) or involuntarily (by descent, for instance), with some arrangement for children who are dual nationals to make a choice when they become of age;

(ii) a ban on dual nationality where it arises voluntarily—our citizens who voluntarily took another citizenship would thereby lose our citizenship, and applicants for our citizenship would have to renounce any other citizenship as a condition of becoming citizens;

(iii) a ban on dual nationality only where our citizens voluntarily acquired another nationality (as was the practice in United Kingdom law from 1870–1948).

63. To ban dual nationality completely would be complicated and expensive. A record would have to be kept of all children born both in the United Kingdom and abroad who had another nationality in addition to ours. When such children came of age they would have to be advised of the need to choose, and the time limit for doing so. In view of the large numbers of people from this country living abroad, and of people from other countries living in the United Kingdom, this would be an immense task, and it is very doubtful whether everyone affected could be covered. The alternative would be to rely on the individual remembering to make a choice, but this could lead to hardship where the individual inadvertently lost his citizenship by failing to do so; there would probably have to be elaborate machinery to exempt such persons, and this could also be expensive. Admittedly, there are bound to be more dual nationals if women are able to transmit their citizenship to their children born abroad

on the same terms as men, but it is doubtful whether this increase would justify a complete ban on dual nationality, with all its attendant problems. After all, most of the children born abroad to British women would probably decide for themselves which nationality they wanted to use.

64. A ban on dual nationality where it arises from a voluntary act would not present so many problems. It could indeed be part of the clearer and better defined British Citizenship for which we are aiming. Some foreign and Commonwealth citizens might be reluctant to give up their citizenship on acquiring ours, though at present many do so automatically under their own country's laws, but it would be difficult to justify setting a more severe standard for our own citizens who want to acquire a foreign or Commonwealth citizenship than for foreign and Commonwealth nationals who want to acquire our citizenship. We should require the same degree of commitment from both groups.

65. Some concessions, however, might perhaps be made in connection with marriage, so that, for instance, those who apply for British Citizenship, or acquire another by virtue of marriage, might be allowed to keep both their citizenships (provided the laws of the other country concerned permit this). Such persons would then still have the right of entry to their country of origin if the marriage failed.

(f) **Civic privileges**

66. An important aspect of citizenship is the privileges associated with it. In this country the common status of British subject, held in our law not only by citizens of the United Kingdom and Colonies but by all other Commonwealth citizens, carries with it voting and other privileges. There are also special arrangements for citizens of the Irish Republic. Such privileges do not stem directly from the law of nationality and so are not dealt with in this document.

A BRITISH OVERSEAS CITIZENSHIP

Transitional arrangements

67. The core of this status would be those who have ties with an existing dependency. The status might therefore be conferred in the first place on those citizens of the United Kingdom and Colonies born, naturalised or registered in an existing dependency, or whose fathers were so born, naturalised or registered. Some of these people might be eligible for British Citizenship too, in one of the ways described in paragraphs 19–23; but in general only British Overseas Citizens would have a right of entry to a dependency so it is important that any British Citizen suitably connected with a dependency should hold British Overseas Citizenship as well in order to secure his right of entry there.

68. The transitional arrangements would also have to cover all other citizens of the United Kingdom and Colonies who do not become British Citizens. These hold their present citizenship for a variety of reasons. Some have connections with the United Kingdom or existing dependencies, but of so remote a nature as not to bring them within the qualifications for British Citizenship, or those for British Overseas Citizenship suggested in paragraph 67. Most people in this group, however, would have acquired citizenship of the United Kingdom and Colonies through their links with a *former* dependency, and

would have no links by birth or ancestry with either the United Kingdom or an existing dependency.

69. One other group of people eligible to hold British passports might also become British Overseas Citizens. These are British Protected Persons who are connected with former dependencies and who would not become British Citizens; nearly all of them would be living overseas.

70. The creation of a British Overseas Citizenship with no right of entry into the United Kingdom would not affect the responsibility which the Government have assumed towards holders of United Kingdom passports from East Africa, and the special voucher scheme would continue.

Permanent arrangements

Linking the citizenship to the right of entry to a dependency

71. The arrangements for acquiring British Overseas Citizenship after a new citizenship scheme came into force—by birth, descent or voluntary act—might be so drawn that we would eventually reach a state of affairs in which British Overseas Citizenship would be derived solely from connection with the dependencies which still exist, and would confer the right of entry to one of them. If this were not done, there would still be many British Overseas Citizens scattered over the world in a hundred years' time with the right of entry neither to the United Kingdom nor to a dependency. The rules for acquiring and transmitting British Overseas Citizenship would have to take account of the difficulties faced by dependencies and the pressure on their resources, which means that they can give the right of entry only to those who have very close ties with them. They could not radically alter these arrangements; there could not, for example, be an understanding that a British Overseas Citizen could go to live in any dependency he might choose unless he had such ties with it.

72. Accordingly, it seems inevitable that the standards for British Overseas Citizenship should differ from those for British Citizenship. British Citizenship could not be adjusted so as to follow the limits proposed for British Overseas Citizenship; the shape of British Citizenship could hardly be determined by the limits placed by dependencies on those with a right of entry to them. On the other hand it would be fruitless to provide that British Overseas Citizenship should follow British Citizenship in all respects. To do so would simply mean that some people who would acquire British Overseas Citizenship, for example through birth to a woman from a dependency, would find that they had no right of entry to the dependency from which their status was derived. Moreover, if British Overseas Citizenship is to be confined to those who "belong" to the dependencies, the arrangements for holding it must reflect the outlook and attitudes of the peoples of the dependencies, and these are bound to differ from those of the people of the United Kingdom.

73. In general, therefore, the long-term aim ought to be to confine British Overseas Citizenship to those with a right of entry to a dependency. To take first of all the arrangements for transmission of citizenship, it ought not to pass automatically to a child born outside a dependency unless the father is a citizen by birth, registration or naturalisation in an existing dependency. This would, of course, mean that some British Overseas Citizens would be able to transmit citizenship to their children while others would not. There could be some minor exceptions to the general rule. For example, it might be right to include

a provision for conferring citizenship on the stateless child of a British Overseas Citizen, once the child had established a direct connection with a dependency by living there for, say, three years. Second, women from the dependencies might only be able to transmit citizenship to their children born abroad where the child was illegitimate. This is because dependencies might be reluctant to grant the right of entry to the legitimate child from abroad when the mother was a British Overseas Citizen but the father was not. Third, there would probably have to be an arrangement to meet international obligations to grant citizenship (on certain conditions) to wives. Although these obligations would have to be taken into account they should not significantly weaken the general principles underlying the citizenship.

74. It would also be necessary, because of the need to relate British Overseas Citizenship to the right of entry to a dependency, for the arrangements for naturalisation in the dependencies to remain much the same as at present, the applicant having to fulfil certain minimum requirements of residence, etc., but beyond that the grant of naturalisation being entirely at discretion.

THE STATUS OF THE IRISH

75. In general, Irish citizens born before 1949 were also British subjects in our law until the Act of 1948 came into force. Since then, those Irish citizens have been eligible to claim, by means of written notice to the Home Secretary, to remain British subjects under a special provision of the Act. Within a new nationality scheme they could continue to be eligible to hold British passports. They and other Irish citizens settled in the United Kingdom would be eligible on the same terms as citizens of Commonwealth and foreign countries to apply for British Citizenship.

CONCLUSION

76. The Government think that change on the general lines set out above would offer a more rational basis not only for citizenship but also for immigration control. In time, the complex distinctions that now govern the right of entry to the United Kingdom would disappear and citizenship would become the test. The people of the United Kingdom would enjoy a more meaningful status than at present, and the present inequalities between men and women in our nationality law would be removed.

77. Overseas, there are some different considerations to be taken into account. Those citizens of the United Kingdom and Colonies and other persons eligible to hold British passports now alive who do not have ties with the United Kingdom or an existing dependency would, as British Overseas Citizens, continue to be eligible for British passports during their lifetimes (or until they took another citizenship voluntarily). But, because of the restrictions on acquiring this status after the scheme started, their numbers would not grow as at present.

78. Those who have close ties with our remaining dependencies would hold a citizenship that properly reflected this relationship.

79. The ideas in this paper are put forward as a basis for discussion. The Government are not bound by them nor committed to them in their present form. But it is hoped that they will provide a framework for the full and informed public discussion that these complex issues merit.

GLOSSARY

1. This glossary is intended merely as an explanation of the various terms and expressions used in the paper; it has no legal authority as an interpretation of those terms or expressions, and in particular, when referring to the holders of a nationality status it assumes that the persons concerned have not renounced or forfeited it.

2. The following terms and expressions are used in the British Nationality Acts.

(*a*) British subject/Commonwealth citizen

These terms are synonymous. Citizens of the United Kingdom and Colonies and citizens of the independent Commonwealth countries all hold the additional status of British subject/Commonwealth citizen. There are also persons whose basic status is British subject and who do not possess the citizenship of any Commonwealth country (see references below to British Subjects without Citizenship, British subjects by virtue of section 2 of the British Nationality Act 1948, and British subjects by virtue of section 1 of the British Nationality Act 1965).

(*b*) Citizen of the United Kingdom and Colonies

This status is held by:

(i) persons who, or whose fathers, were born, naturalised, or registered under the British Nationality Acts in the United Kingdom, the Channel Islands or Isle of Man, or in any of the remaining colonies (except Southern Rhodesia, which since 1950 has had its own citizenship), or in any of the Associated States in the West Indies;

(ii) persons born in foreign countries whose fathers were citizens of the United Kingdom and Colonies by descent and whose births have been registered at a British Consulate;

(iii) persons who, or whose fathers, derive their citizenship from a connection with a former colony or other dependency but who did not acquire the new country's citizenship automatically at independence;

(iv) certain persons who have been adopted in the United Kingdom by a citizen of the United Kingdom and Colonies.

(*c*) British Subject without Citizenship

British Subjects without Citizenship are persons born before 1 January 1949 who were British subjects by reason of their connection with former British India but did not become citizens of India or Pakistan when those countries introduced their own citizenships after independence, usually because they were not living in one of them at the time (see also paragraphs 4 and 7 of the paper).

(*d*) British subjects by virtue of section 2 of the British Nationality Act 1948

These are citizens of the Republic of Ireland, born before 1 January 1949, who were then British subjects and have remained British subjects by making a formal claim under section 2 of the 1948 Act.

(*e*) British subjects by virtue of section 1 of the British Nationality Act 1965

These are women who have been registered as British subjects under the 1965 Act by reason of their marriage to a British subject without citizenship ((*c*) above) or a British subject by virtue of section 2 of the 1948 Act ((*d*) above).

(*f*) British Protected Persons

British Protected Persons are not British subjects/Commonwealth citizens; nor are they aliens. Most of them are connected by birth or descent with the one remaining British protectorate (the Solomon Islands) or are nationals of Brunei. Some are persons who were connected with former protectorates or former trust territories but have not become citizens of those countries.

(*g*) Aliens

An alien is a person who is *not:*

(i) a British subject/Commonwealth citizen;

(ii) a British Protected Person; or

(iii) a citizen of the Republic of Ireland.

The term "foreigner" has no meaning in British nationality law, though nowadays it is generally preferred to the term "alien". Other expressions such as "British citizen", "British national", "United Kingdom citizen", and "citizen of the United Kingdom", although commonly used, have no meaning in current nationality law.

3. The expression "United Kingdom national for European Community purposes" is not defined in current nationality law—it covers persons who:—

(*a*) have a national status as at 2(*b*), (*c*), (*d*) or (*e*) above, *and* who have the right of abode in the United Kingdom and are therefore exempt from United Kingdom immigration control;

(*b*) are citizens of the United Kingdom and Colonies by birth or by registration or naturalisation in Gibraltar, or whose fathers were so born, registered or naturalised.

Printed in England for Her Majesty's Stationery Office by Harrison & Sons (London) Ltd.
21615 Dd 161837 K48 4/77