



United Kingdom: Language Requirements for Citizenship

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UNITED KINGDOM

LANGUAGE REQUIREMENTS FOR CITIZENSHIP

Executive Summary

Language requirements for citizenship are contained in the Immigration Rules. The demonstration of English, Scottish Gaelic, or Welsh is met through the completion of a citizenship test, which in order to pass requires a certain degree of proficiency in one of the aforementioned languages.

I. British Citizenship

Legislation regarding citizenship in the United Kingdom (UK), and thus entitlement to a British passport, is highly complex and is contained primarily in the British Nationality Act 1981, as amended.¹ Individuals born in the UK, or in a former colony of the UK, on or after January 1, 1983, and whose parents are either British citizens or settled in the UK, are entitled to British citizenship (*double jus soli*).² Individuals also can obtain British citizenship through adoption by British citizens or persons settled in the UK, by descent, and through naturalization and registration.³ Citizenship is not granted automatically to individuals who have been legally resident in the UK for any period of time, nor is it granted automatically to women who marry British citizens or to babies born in the UK. Such individuals must meet certain criteria and apply for citizenship.

II. Citizenship through Naturalization

Citizenship through naturalization is not an entitlement or right. Certain legal requirements must be met and the Home Secretary must “see fit” to grant citizenship, the main legal hurdles being resident in the UK for a period of five or more years with the last twelve months of residency being free from immigration restrictions.

Specifically, the law requires that applicants for citizenship must be:

- over the age of 18 years;

¹ British Nationality Act 1981, c. 61, as amended by the Nationality, Immigration and Asylum Act 2002, c. 41. Nationality refers to individuals who are British citizens; British subjects with the right of abode in the United Kingdom and thus who are outside the scope of the United Kingdom’s immigration control; and citizens of British Overseas Territories. In this report, the term citizenship is used to include nationality. These terms are commonly interchanged. Nationality has been defined as a person’s international identity that demonstrates they belong to a state, as evidenced by a passport. Citizenship has been considered to be more “a matter of law determined by the facts of a person’s date and place of birth, those of their parents and the application of the provisions of the relevant legislation” and concerns with the rights, duties and opportunities that a person has within a state, such as voting right, military service, and access to healthcare. Laurie Fransman, FRANSMAN’S BRITISH NATIONALITY LAW (2d ed. 1998).

² For the rules regarding British citizenship applying to children born in the United Kingdom *see* Immigration and Nationality Directorate, *BN1 – British Citizenship*, Chart A.

³ British Nationality Act 1981, c. 61, §§ 3-5.

- able to communicate effectively in either English, Welsh, or Scottish Gaelic; have sufficient knowledge of life in the UK;
- of sound mind;
- intent to continue to reside in the UK “or to enter or continue in Crown Service, the service of an international organisation of which the UK is a member or the service of a company or association established in the UK”;
- of good character, demonstrated by observing the laws of the UK and fulfilling the duties and obligations of being a resident in the UK, such as by paying taxes;
- legally resident in the United Kingdom for a period of five years;
- free from any immigration restrictions during the twelve months preceding the application; and
- not have been absent from the UK for a total period of 450 days, with no more than ninety of these days occurring in the twelve months preceding the application.⁴

If the individual is applying on the basis of marriage to a British citizen, the period of residency is three years and the applicant must not have been absent from the UK for a total period of 270 days in these three years. The Home Office has some discretion with regard to processing applications where the total number of days the applicant was absent from the UK surpasses the allowed numbers.⁵

If all these requirements are met, the applicant must then take a formal oath and pledge of allegiance before citizenship will be granted.⁶ This requirement was in response to concerns the common sense of “Britishness” was diminishing and that a clearer idea of the rights and responsibilities of British citizenship could be established through a formal statement of allegiance.⁷

III. The Language Requirement

As noted above, citizenship applicants must be able to communicate effectively in either English, Welsh, or Scottish Gaelic. Applicants can demonstrate this ability in one of two ways. The first is simply showing that they meet the English for Speakers of Other Languages (ESOL) Entry 3 standard of English. There is no need to submit a form to the Home Office demonstrating this capability, as the citizenship test that applicants for naturalization are required to pass is designed to require the ability to use English language at the ESOL Entry 3 standard and thus “applicants who pass the test will automatically have shown that they have the required level of ability in English.”⁸ For applicants that cannot meet this standard, the completion of a course of study in ESOL, which also includes materials on citizenship, will assist them in passing the citizenship test. Individuals that have been legally resident in the UK or

⁴ British Nationality Act 1981, c. 61, sch. 1.

⁵ Home Office, *Naturalisation as a British Citizen*, Aug. 2005,

http://www.ind.homeoffice.gov.uk/ind/en/home/applying/british_nationality/application_forms.Maincontent.0004.file.tmp/Form%20AN%20New.pdf.

⁶ British Nationality Act 1981, c. 61, § 42. The oath and pledge of allegiance are contained in schedule 5 of the British Nationality Act 1981, c. 61.

⁷ HOME OFFICE, *COMMUNITY COHESION: A REPORT OF THE INDEPENDENT REVIEW TEAM*, 2002, ¶ 5.1.16.

⁸ Home Office, *Knowledge of Life in the UK*, <http://www.ind.homeoffice.gov.uk/applying/nationality/knowledgeoflifeintheuk#> (last visited Nov. 20, 2006).

another EU country for three or more years (twelve months if applying for citizenship on the basis of marriage) may be eligible for free language tuition for the ESOL course.⁹ In the first year after the introduction of citizenship tests, applications for citizenship dropped by 8 percent.¹⁰

IV. Requirement of English Language for Government Jobs

The Cabinet Office issued advice in February 2001 that the requirement of a formal English language qualification for a job within the government is likely to contravene a number of laws in the UK and is difficult to justify in most circumstances.¹¹ Notably, “a requirement for an English language qualification could amount to indirect discrimination under section 1(1)(b) of the Race Relations Act 1976¹² if it [is] a greater obstacle to ethnic minority candidates.”¹³ A claim of indirect discrimination may possibly be defended if the language requirement is a necessary and appropriate means of locating an applicant capable of performing the duties of the job.¹⁴

The UK also must meet its obligations as a Member State of the European Union. As such, it must ensure that freedom of movement for workers between Member States is not impeded through English language requirements for jobs that are not specifically reserved for UK nationals. While there is an exception to these requirements for employment in the public service, it is narrowly construed and the Cabinet Office recommends that any language requirements should be “justified objectively on grounds unrelated to nationality, and ... in proportion to the aim being legitimately pursued.”¹⁵

The Cabinet Office ultimately states that if it can be justified that the job requires a certain degree of literacy and fluency in English it can be specified in the job advertisement and a language test then administered. The Cabinet Office notes that the standard of English language tested for must be necessary for the requirements of the job, as some race discrimination claims have succeeded on the basis that the test was not objectively justified.¹⁶

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⁹ Home Office, *Naturalisation as a British Citizen*, Aug. 2005.

¹⁰ BBC News, *UK Citizenship Applications Fall*, May 17 2005, http://news.bbc.co.uk/2/hi/uk_news/4555663.stm.

¹¹ Cabinet Office, *Recruitment on the Basis of Educational Qualifications: Requirement for Qualification in English Language*, PIN 44, Feb. 2001, <http://www.civilservice.gov.uk/publications/rtf/pin44.rtf>.

¹² Race Relations Act 1976, c. 74.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*