

# STATES OF JERSEY



## NATIONALITY ACTS: EXTENSION TO JERSEY

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Lodged au Greffe on 19th August 2024  
by the Chief Minister  
Earliest date for debate: 1st October 2024

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STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to consent to the extension of various provisions concerning British citizenship, which are contained in the Acts and Subordinate Legislation of the Parliament of the United Kingdom as set out in the appendices to this proposition and their subsequent registration in the Royal Court.

**CHIEF MINISTER**

## **REPORT**

### **Summary**

In respect of the extension of UK Acts to Jersey, Article 31 of the States of Jersey Law 2005 provides:

*“(1) Where it is proposed –*

*(a) that any provision of a draft Act of the Parliament of the United Kingdom should apply directly to Jersey; ...  
the Chief Minister shall lodge the proposal in order that the States may signify their views on it.*

*(2) Where, upon transmission of an Act of the Parliament of the United Kingdom containing a provision described in paragraph (1)(a) ... to the Royal Court for registration, it appears to the Royal Court that the States have not signified their agreement to the substance of the provision ...*

*(a) the Royal Court shall refer the provision ... to the Chief Minister; and*

*(b) the Chief Minister shall, in accordance with paragraph (1), refer it to the States.”*

The purpose of Article 31 is to secure democratic accountability for UK Acts that are expressed to extend to Jersey and Orders in Council extending UK Acts to Jersey. H.M. Attorney General has previously advised the States Assembly that the Parliament of the United Kingdom may not enact legislation binding on Jersey without its consent.

This proposition is being brought by the Chief Minister in order for the States Assembly to consent to the relevant provisions in the Appendix of this Proposition applying to Jersey. Subject to the Assembly’s approval, steps will be taken to bring the matter of registration before the Royal Court.

### **Matters of British Citizenship**

The Parliament of the United Kingdom is responsible for the laws covering British citizenship. This proposition is only concerned with provisions which relate to British Citizenship and nothing more.

The principal UK enactment for the purpose of British Citizenship is the British Nationality Act 1981 (the “BNA”), which sets out how a person may acquire British citizenship. The BNA has been registered by the Royal Court and it is clear that it therefore extends and applies to Jersey as it does to the other Crown Dependencies, as well as the United Kingdom.

Constitutionally, it is appropriate that matters of nationality and British Citizenship are determined in Jersey in the same way as in the United Kingdom.

The relevant Acts and Subordinate Legislation of the Parliament of the United Kingdom set out in the Appendix to this proposition all, to some extent, deal with matters of nationality and British citizenship.

The relevant provisions set out in this proposition should not be confused with other parts of the legislation that may deal with immigration control (that is with provisions that set out rights to enter and remain in Jersey) or other matters entirely. This

proposition and the various provisions detailed in the Appendix are concerned only with nationality.

In order to stay to aligned with the UK, it is proposed that the relevant parts of the legislation (as detailed in the Appendix) should be registered by the Royal Court and thereby properly incorporated into Jersey law.

The purpose of this proposition is to ask the States Assembly to consent to the various provisions detailed in the Appendix applying to Jersey; and that the relevant legislation should be sent to the Royal Court for registration.

#### Historic British Nationality legislation – Housekeeping

Whilst the BNA has been duly registered by the Royal Court, the relevant legislation, including that which amends the BNA (those listed in subparagraph (d)(i)-(ix)) have not. These historic provisions are included as part of a tidying-up exercise to ensure that Jersey’s legislation is aligned with the UK in respect of nationality and are included in this proposition for completeness.

#### **Financial and staffing implications**

There are no financial or staffing implications arising from this proposition.

#### **Children’s Rights Impact Assessment**

A Children’s Rights Impact Assessment (CRIA) screener has been prepared in relation to this proposition and is available to read on the States Assembly website.

#### **Re-issue Note**

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This projet has been re-issued to include a missing column in the tables on Appendix 2, and to remove references in the report to ‘Part A’, which was no longer required.

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## **Appendix 1**

### **Part A**

The relevant Acts and Subordinate Legislation of the Parliament of the United Kingdom that contain provisions concerning British citizenship are:-

- (a) Nationality and Borders Act 2022;
- (b) British Nationality (Regularisation of Past Practice) Act 2023;
- (c) British Citizenship (Irish Citizens) Act 2024; and
- (d) Other Historic British Nationality legislation:
  - (i) British Nationality (Falkland Islands) Act 1983
  - (ii) British Overseas Territories Act 2002
  - (iii) Nationality, Immigration and Asylum Act 2002
  - (iv) Adoption and Children Act 2002
  - (v) Adoption (Intercountry Aspects) Act 1999
  - (vi) Borders, Citizenship and Immigration Act 2009
  - (vii) Immigration Act 2014
  - (viii) British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021/743; and
  - (ix) Hong Kong (British Nationality) Order 1986/948

as summarised in the Report to this Proposition.

## Appendix 2

### Nationality Provisions to apply to Jersey

	Legislation	Summary	Nationality provisions to apply to Jersey	Additional amending provisions
(a)	<a href="#">Nationality and Borders Act 2022</a>	The Nationality and Borders Act 2022 ('NABA') contains provisions about nationality, asylum and immigration which have relevance due to the Island's constitutional relationship with the UK, through the Crown, and its participation in the Common Travel Area. The nationality provisions set out in Part 1 of NABA, as far as they relate to Jersey, make provision for British overseas territories citizenship; British citizenship; powers of the Secretary of State relating to citizenship etc and the registration of stateless minors.	c.36, Pt. 1, s.1(2), s.1(3), s.2(2), s.2(3), s.3, s.4(2), s.4(3) s.6(3), s.7(2)(c), s.7(3), s.8(2), s.8(3), s.9 Sch.1 para.2(2)(a), para.2(3)	c.36, Pt. 1, s.5(1)(a), s.5(1)(b), s.6(2), s.7(2)(a), s.7(2)(b)
(b)	<a href="#">British Nationality (Regularisation of Past Practice) Act 2023</a>	This is an Act to make provision for immigration restrictions to be disregarded for the purposes of the British Nationality Act 1981 in historical cases in which such restrictions were in practice disregarded. These measures apply directly to Jersey in the usual way. This Act preserves the rights of people already considered to be British citizens who were born in the British Isles with a parent who was an +EEA national settled in the British Isles at the time.	s.1	
(c)	<a href="#">British Nationality (Irish Citizens) Act 2024</a>	This Act makes provision about British citizenship in respect of Irish nationals; and for connected purposes. The route will be similar to the existing route for British nationals at section 4(2) of the British Nationality Act 1981, which is based on a	c. 19, s.1 and 2	

		period of five years' lawful residence in the UK, but with no Life in the UK or language requirements.		
<b>(d) Other Historic British Nationality Legislation:</b>				
<b>(i)</b>	<a href="#">British Nationality (Falkland Islands) Act 1983</a>	The British Nationality (Falkland Islands) Act 1983 amended provisions relating to commonwealth citizenship.	c.6, s.4(3)	
<b>(ii)</b>	<a href="#">British Overseas Territories Act 2002</a>	The British Overseas Territories Act 2002 made provision for the name "British overseas territories" and British citizenship so far as relating to the British overseas territories.	c.8, s.1(1)(b), s.2(2), s.4 & Sch.1, para.4.	c.8, sch.1, para. 1(2)(a), 1(2)(b), 1(3)(a), 1(3)(b), 1.(3)(c), 2(2)(a); 2(2)(b)2(2)(c); 2(3); 2(4)(a); 2(4)(b); 3(3)(a); 3(3)(b); 3(4)(a); 3(4)(b); 3(2);
<b>(iii)</b>	<a href="#">Nationality, Immigration and Asylum Act 2002</a>	The Nationality, Immigration and Asylum Act 2002, as it applies to Jersey, makes provision about nationality and in particular, the legitimacy of a child; registration without other citizenship or being born between 1961 and 1983; and the repeal of spent provisions. It also includes various repeals of other enactments (as they relate to nationality).	c.41, Pt.1, s.9(2)(c), s.9(3)(b), s.9(3)(c) s.12(1), s.12(2), s.13(1), s.13(2), Sch.2 para.1(a), 1(b), 1(c), 1(d), 1(e), 1(f), Sch.9 para.1, Sch.2 para.1(g), 1(h) &1(i).	
<b>(iv)</b>	<a href="#">Adoption and Children Act 2002</a>	The Adoption and Children Act 2002, as it applies to Jersey, makes provision about the extension of the Hague Convention to British overseas territories.	c.38, Pt.3, C.1, s.137(4)(a), s.137(4)(b), s.137(5)(a) & s.137(5)(b).	
<b>(v)</b>	<a href="#">Adoption (Intercountry Aspects) Act 1999</a>	The Adoption (Intercountry Aspects) Act 1999, as it applies to Jersey, makes provision for the acquisition of British citizenship by persons who are the subject of a Convention adoption.	c.18, s.7(1) & s.7(2).	
<b>(vi)</b>	<a href="#">Borders, Citizenship and Immigration Act 2009</a>	The Borders, Citizenship and Immigration Act 2009, as it applies to Jersey, makes provision for children born	c.11, Pt.2, s.42(2), s.42(4), s.42(6),	c.11, Pt.2, s.44(2)(a) and Sch. 1(2) para.1;

		inside and outside the UK etc. to members of the armed forces and makes provision for British Nationals (overseas) without other citizenship and for descent through the female line.	s.44(2)(b), s.44(4), s.45(3), s.45(4) & s.46.	s.44(3); s.45(1); s.45(2) and Sch.1(2) and para. 1
(vii)	<a href="#">Immigration Act 2014</a>	The Immigration Act 2014, as it applies to Jersey, makes provision for persons unable to acquire citizenship where the natural father is not married to the mother.	c.22, Pt.6, s.65 & Sch.9(9) para.70(2).	
(viii)	<a href="#">British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021/743</a>	The British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021/743 as it applies to Jersey, makes provision for acquisition of British Citizenship in connection with the immigration rules, Appendix EU.	Reg. 2(2) and (3)	
(ix)	<a href="#">Hong Kong (British Nationality) Order 1986/948</a>	The Hong Kong (British Nationality) Order 1986/948, as far as it applies to Jersey, makes provision for a British National (overseas).	Art.7(2) and Art.7(3)(b)	