

Contact and enquiries:

windrush@passportia.org

www.passportia.org

020 7993 8975

UK Immigration Law affecting Commonwealth Citizens

who migrated to the United Kingdom before 1973

Summary

This article outlines the immigration law and practices of the United Kingdom applying to Commonwealth citizens who came to the UK before 1973, primarily those who had no ancestral links with the British Isles. It attempts to identify which Commonwealth citizens automatically acquired indefinite leave to remain under the Immigration Act 1971, and what evidence may be available. This article was inspired by the difficulties many Commonwealth citizens who arrived in the UK in the 1950s and 1960s, who have not acquired British citizenship and are now experiencing difficulty demonstrating that they have indefinite leave to remain under the current law. In the ongoing media coverage, they are often described as the “Windrush Immigrants”, loosely suggesting those who came from the West Indies. However, their position is similar to that of immigrants from other British territories and independent Commonwealth countries, which this article also tries to cover.

This article utilised research and analysis done in 2016 and 2017 of pre 1973 UK immigration law for a system modelling nationality.

Before July 1962

Immediately before July 1962, Commonwealth citizens, British protected persons and Irish citizens were not subject to immigration control in the United Kingdom. ‘Commonwealth citizens’ comprised citizens of the United Kingdom and Colonies (“CUKC”), citizens of other Commonwealth countries and various transitional categories of British subject. At entry such persons were given a cursory examination and their passports were not stamped, and there were no restrictions on the time they could remain in the UK or on their employment.

In contrast, under common law and the Aliens Restriction Acts 1914 and 1919, almost all aliens (i.e. non-Commonwealth citizens) needed express permission to enter or remain in the UK and to register with the police.¹

Commonwealth Immigrants Act, 1962 ('CIA 1962')

The Home Secretary R.A.B. Butler sold the bill to the Commons on the basis that it was a temporary measure and would give an immigration officer the power to apply *on a selective basis* to Commonwealth citizens who were subject to control, a 'condition' limiting his length of stay or activity in the UK, but that power would be optional and used reasonably. The power to impose conditions could only be applied to a Commonwealth citizen on entering the UK, not if he was within the UK. The expression 'condition' really means a 'restriction' on the time the person could spend in the UK or the employment he could engage in.

The CIA 1962 applied to Commonwealth citizens, British protected persons and Irish citizens. All others were aliens and remained subject to control under the 1914 Act. Part I of the Act imposed controls and came into force on 1 July 1962.²

Between July 1962 and July 1965 conditions were sparingly imposed on Commonwealth citizens from abroad and most were admitted without conditions.

Following the CIA 1962, Entry Clearance Officers were employed at UK High Commissioners in Commonwealth countries and by governments in colonial territories to provide "entry clearance". An "entry certificate" was effectively a form of visa, but the expression "visa" was not used as it may have suggested that Commonwealth citizens were treated like aliens.

Persons Restricted by the CIA 1962

The CIA 1962 identified categories of Commonwealth citizens who were entitled to enter the UK without any restriction:

- persons not subject to control under the Act (section 1),
- persons who were exempt from control (section 17), or,
- persons who could not have conditions imposed at entry to the UK (section 2(1)).

¹ This permission was known as "leave to land".

² The Commonwealth Immigrants Act 1962 (Commencement) Order 1962.

For convenience a single list of all such persons is set out below. Any reference to 'section' is to the CIA 1962.**

Not subject to control:

1. a Commonwealth citizen born in the UK (section 1(2)(a)),
2. a Commonwealth Citizen who held a UK passport issued in the British Isles or Republic of Ireland (section 1(2)(b)),
3. Before 2 March 1968, a CUKC who held a UK passport issued anywhere (section 1(2)(b)),
4. From 2 March 1968, a CUKC who held a UK passport and who, or whose parent or grandparent, had been granted nationality by the government of the UK or Islands, including a High Commissioner representing the UK (section 1(2)(b) as revised)),
5. A person included in the passport of a person described above (section 1(2)(c))

Exempt from control:

6. A Commonwealth citizen connected with a diplomatic or consular mission, or in certain types of employment, such as international organisations (section 17),

Could not have conditions imposed on entry:

7. A Commonwealth citizen who was, or at any time in the previous two years had been, resident in the UK and not subject to a 'condition restricting the period for which he may remain' (section 2(2)(a)),
8. A wife whose husband who was resident in the UK *with or without conditions* (section 2(2)(b)), Before 2 March 1968, a child aged under 16 years who entered the UK with a parent who was admitted *with or without conditions* (section 2(2)(b)),
9. A wife who entered the UK with a husband who was admitted *with or without conditions* (section 2(2)(b)),
10. Before 2 March 1968, a child aged under 16 years whose parent was resident in the UK *with or without conditions* (section 2(2)(b)),
11. From 2 March 1968, a child aged under 16 years who entered the UK with both parents who were admitted *with or without conditions* (section 2(2)(b)),

12. From 2 March 1968, a child aged under 16 years both of whose parents were resident in the UK *with or without conditions* (section 2(2)(b)),
13. From 2 March 1968, a child aged under 16 years who entered the UK with one parent and the other parent was resident in the UK *with or without conditions* (section 2(2)(b)),

Under the CIA 1962 a 'child' included a step-child and an adopted child and, in relation to the mother, an illegitimate child (section 2(6)).

Under the CIA 1962 'ordinary residence' required that the person was not subject to a condition restricting the time he could remain (even if the conditions had expired as in the case of an over-stayer) (section 2(6)). In contrast 'residence' was not defined, and it would seemingly not matter if the person was subject to conditions, was in breach of those conditions (such as an over-stayer), or if the intention to stay was temporary.³

All other Commonwealth citizens *could be subjected to control* on entry. This could only happen if a person entering the UK was examined by an immigration officer and that officer imposed conditions that limited the time of stay or employment (section 2(1)).

Once imposed, conditions remained in force until the person was examined on re-entering the UK (section 2(6) of the First Schedule). If a person was not examined on entering the UK, such as by arrival from the Republic of Ireland or at a small port with no officers on duty, then he entered free of conditions or remained subject to any conditions previously imposed. Thus Irish citizens and others who entered the UK from Ireland were generally not subject to conditions as they were not examined at entry.

The Act gave a power to vary or revoke (lift) any existing conditions on a person inside the UK (section 2(5) of the First Schedule), but there was no power to impose conditions on a person who was free of conditions. This would include any person who had arrived in the UK before July 1962 or came within the control due to say loss of CUKC. Lifting of conditions would take the form of a letter or stamp⁴ in a passport or both.

Commonwealth Immigrants Act 1968

This Act took effect from 2 March 1968. The main change was to replace section 1(2)(b) and so remove from the control of the Act CUKCs who had blood ties with the British Isles, being vast numbers of people in the Old

³ See para 24 of the Immigration Instructions of 1962 (CMD 1716).

⁴ For examples see TNA files FCO 50-273 and 344/86.

Commonwealth, and to bring within the control of the Act holders of UK passports issued outside the British Isles or Ireland whose UK nationality arose from an existing or former colonial territory.

United Kingdom Passports

British Passports issued by the Passport Office in the UK and by UK posts abroad (consulates in foreign countries and High Commissions in Commonwealth countries) were issued by the UK government. Passports issued in a colonial territory were issued by and in the name of the government of that territory.

In general, by 1962, a UK passport would be issued only to a CUKC, a British protected person, or British subject who was not a citizen of a Commonwealth country. In exceptional circumstances a short duration UK passport would be issued to a citizen of a Commonwealth country, but this would not be a UK passport for the purposes of the CIA 1962, as it was issued on behalf of that country.

A 'United Kingdom passport' was defined in the CIA 1962 to mean one issued by the government of the UK, Guernsey, Jersey or Isle of Man, not being a passport endorsed as being issued on behalf of another part of the Commonwealth, in practice a colonial territory or occasionally a Commonwealth country (section 1(3)). These endorsements are poorly understood. Thus a British Passport issued by the government of a colonial territory could not be a "UK passport".

After July 1962, a passport issued by the UK government in the UK to a person i) subject to conditions and ii) whose CUKC or British protected person status was based on links to a remaining overseas colonial territory, would normally have an endorsement identifying the territory concerned. This endorsement was done by Passport Offices in the UK, who would if necessary consult the Home Office. Such an endorsement was a device that could bring the person under the control of the CIA 1962. The practices regarding endorsements were examined in cases at the Immigration Appeal Tribunal⁵. It is unknown to what extent these endorsements were applied by UK posts abroad.

Citizenship of the United Kingdom and Colonies ('CUKC')

Before 1962, almost all persons born in the British Caribbean countries and other remaining colonies were CUKC. Before 1962, almost all persons born in the British protectorates, protected state and United Kingdom

⁵ The practice of the Passport Office is revealed in the case *Secretary of State for the Home Department v Lakdawalla* [1970] Imm AR 1-100, IAT. See also *Mamacos v Secretary of State for the Home Department* [1970] Imm AR 1-100, IAT, and *R v S of S for the Home Department*, ex p Bhurosah, ([1967] 3 All ER 831).

Trust Territories were British Protected persons. As each country became independent the vast majority of the persons born therein acquired citizenship of the new state and lost CUKC or British Protected person status.

Almost all such states were Commonwealth countries such their citizens continue to be Commonwealth citizens, but freedom from control of the CIA 1962 depended in some cases (3 and 4 above) on possession of CUKC.

A person holding or included in a UK passport might or might not be subject to control through complex criteria , and there was an interplay between where the passport was issued (in the British Isles or not), whether it was endorsed as being issued on behalf of another part of the Commonwealth and whether the holder was a CUKC. In the appendix are examples which illustrate the interplay of CUKC and immigration status.

Examination of Commonwealth Citizens on Arrival in the UK

From July 1962 all persons, including Commonwealth citizens entering the UK at a port of entry were examined at entry and their passports were stamped. The power to impose or not impose conditions on entry was at the discretion of the immigration officer, but instructions approved by Parliament identified many situations where a person was entitled or eligible to be admitted without conditions. One example is a person who had served UK armed forces after WW2 or served in the armed forces of any Commonwealth country during wartime. Another example is a person with an Employment Voucher from the Ministry of Labour or a Special Voucher from an Entry Clearance Officer.

The published Immigration Instructions were modified and re-issued several times during the life of the CIA 1962, and it is well beyond the scope of this article to summarise these. They were much less formal and prescriptive than the current Immigration Rules. The general statement⁶ in the instructions is worth considering:

"The Immigration Officer has the power to impose a condition limiting the visitor's length of stay in the United Kingdom. Where this power is exercised, he can in addition impose a condition limiting or prohibiting the visitor's employment or occupation. It will not be necessary to use these powers frequently. But the Immigration Officer should consider imposing a condition limiting the period of stay where the visitor's intentions are not clear, and he thinks it important that the visitor should appreciate that he is permitted to stay only for a limited period."

In addition, extensive "unpublished instructions" were issued to immigration officers and Entry Clearance Officers⁷ setting out in more detail how the published Immigration Instructions should be implemented, as well as information for reference. This included the endorsements used by the UK Passport Office, the various stamps

⁶ The start of para 7 para of the Immigration Instructions of 1962 (CMD 1716).

⁷ The "Blue Book", later a chapter in Volume 41 of the Diplomatic Service Procedures.

used at entry or to vary or revoke conditions, and a flow chart for determining if a Commonwealth citizen was subject to control⁸. These were frequently amended and parts of these are held at the National Archives at Kew, London.

If the person was admitted without conditions, his passport would receive a bare rectangular date stamp. This is stated in unpublished instructions. Conditions were imposed by an endorsement annotated to the date stamp, using a rubber stamp or by hand. There was no record keeping system of such admissions. That has left a problem for those who need proof of admission. A departures from the UK were recorded by a triangular stamp.

The Position of Commonwealth Citizens at the end of 1972

The first very important question to ask is “Could the person have been made subject to conditions on an entry to the UK before 1973?” If he satisfies any of the tests listed at ** above at an entry then he could not have on that occasion.

Common examples of a Commonwealth citizen who was not subject to conditions immediately before 1973 are if:

- He had entered the UK before July 1962 and remained in the UK since that time.
- He had entered the UK between July 1962 and Dec 1972, with a bare date stamp at last entry.
- She had entered with a husband who was admitted or her husband was already resident (see above).
- He had entered as a child aged under 16 years accompanying a parent who was admitted or he had a parent already resident (see above, the test involves both parents for an entry from 2 March 1968)
- He had entered the UK at any time and his conditions had later been revoked.
- He held or was included on a British Passport current on 31 Dec 1972, of a type described at 2, 3 or 4 above).
- He entered the UK at a time when he held or was included on a British Passport of a type described at at 2, 3 or 4 above at entry.

⁸ See TNA 344/86 and FCO 50-273.

Immigration Act 1971 ('IA 1971')

This Act took effect from 1 January 1973. A class of persons called 'patrials' was not subject to control under the Act and was a recognisably similar class of persons who had been free of the control of the CIA 1962 since 2 March 1968. Leave to enter or remain was required by non-patrials, and this leave lapsed on departure (section 3(4)), unlike conditions under the CIA 1962 which persisted until a re-examination on re-entry.

The IA 1971 conferred indefinite leave to remain automatically onto two overlapping groups of non-patrials, through two transitional provisions.

Firstly, under section 1(2), a person resident and physically present in the UK at the end of 31 Dec 1972 and who was not subject to conditions (and not reliant on exemption through section 8), automatically acquired on 1 January 1973 indefinite leave to enter and remain⁹. This leave appears as durable as indefinite leave to enter or remain granted administratively on or after 1 January 1973. i.e. it lapsed on departing from the Common Travel Area¹⁰ (section 3(4) of the IA 1971), but it would normally be re-granted on entry if the absence was less than 2 years (in the case of a departure after 1 Oct 2000 the indefinite leave lapsed only after an absence of 2 years). If a person who was settled in the UK on 1 January 1973, and was later absent for more than two years, before 30 July 1988, would not lose indefinite leave¹¹.

Secondly, under section 34(3), a person who had been admitted to the UK without conditions, between July 1962 and December 1972, and who was not subject to conditions on 31 Dec 1972 automatically acquired indefinite leave to enter on 1 January 1973. It did not matter where the person was resident or located on that date. This provision probably benefitted only those were admitted to the UK without conditions during the life of the CIA 1962, following an examination¹². It probably does not benefit a Commonwealth citizen who last arrived in the UK before July 1962. But such a person may benefit from section 1(2) as described above. Few practitioners seem aware of this provision and it is buried deep in the Act¹³. This leave appears to survive until the person first visited the UK after 1 January 1973, after which it could be lost be on departing the Common Travel Area(see above).

In addition, section 1(5) of the IA 1971, in force until 30 July 1988,

⁹ See Macdonald's Immigration Law and Practice, 8th Edition para 5.19.

¹⁰ The UK, Islands and Republic of Ireland.

¹¹ See Home Office guidance for an NTL application.

¹² It might even be limited to persons admitted at a time whilst subject to control following the line of reasoning in *R v Secretary of State for the Home Department, ex Himalyaishwar* (1984 Times).

¹³ See Macdonald's Immigration Law and Practice, 8th Edition para 5.20.

(5) The rules shall be so framed that Commonwealth citizens settled in the United Kingdom at the coming into force of this Act and their wives and children are not, by virtue of anything in the rules, any less free to come into and go from the United Kingdom than if this Act had not been passed.

The Home Office view is that this means a person absent from the Common Travel Area for more than two years between 1 January 1973 and 30 July 1988 has a right to be admitted with indefinite leave to remain¹⁴.

There are 3 further provisions in the current law which can in some cases aid Commonwealth citizens born before 1973.

Under section 7 of the IA 1971, a Commonwealth citizen who had been lawfully resident in the UK on 1 January 1973 and who has been lawfully resident in the UK for the previous 5 years, is generally exempt from deportation.

Under para 16 of the current Immigration Rules, a UK national subject to control has a right to be granted indefinite leave on entering the UK if he can produce a UK passport issued in the UK and Islands before 1973, issued to him or on which he was included, and which was not endorsed to show he was subject to immigration control¹⁵.

Under para 17 of the current Immigration Rules, a British Overseas citizen subject to control has a right to be granted indefinite leave on entering the UK if since 2 March 1968 he was admitted to the UK without conditions or had his conditions lifted, or he was (after 1972) granted indefinite leave to enter or remain¹⁶. This paragraph seems redundant as regards a person who acquired indefinite leave to enter under section 34(3) (see above) unless he visited the UK after 1972 and was then absent for 2 years.

Right of Abode

Between 1973 and 1982, a CUKC who had at any time been lawfully resident in the UK for 5 years and had no time limit on his stay not reliant from employment related exemption¹⁷ (even at a time before 1973) acquired right of abode and became *patrial*¹⁸. Such status could not be lost by absence from the UK, but loss of CUKC would

¹⁴ This view has been expressed by John Vassiliou.

¹⁵ An endorsement concerning on behalf of whom the passport was issued does not appear relevant. For commentary see Macdonald's Immigration Law and Practice, 8th Edition 8th Edition para 5.27.

¹⁶ For commentary see Macdonald's Immigration Law and Practice, 8th Edition 8th Edition para 5.28.

¹⁷ Under section 8 of the IA 1971 or section 17 of the CIA 1962.

¹⁸ IA 1971, section 2(1)(c), 2(3)(d) and 8(5).

end right of abode and not cause any leave previously held to revive, thus leaving the person with no rights to remain in the UK, apart from possibly section 34(3).

Many persons lost CUKC and (if held) right of abode when the country through which CUKC was held became independent. Surprisingly there was no provision in independence or immigration legislation for CUKC with right of abode, apart from Dominica and Belize (British Honduras) whose independent legislation did not affect their status. CUKC with right of abode immediately before 1 January 1983 automatically became British citizens.

The Remedy

A Commonwealth citizen who lived in the UK before 1973, who does not have British citizenship or right of abode, and who wishes to remain in the UK, needs certification of his UK immigration status. In almost all cases the suitable certification is a "Biometric Residence Permit". To obtain this he should apply to the Home Office for confirmation of his existing status using form NTL:

<https://www.gov.uk/government/publications/application-to-transfer-indefinite-leave-to-remain-in-uk-form-ntl>

The Home Office fee is £229 and the NTL guidance is at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/680978/No-time-limit-v13.0ext.pdf

Notethat "Biometric Residence Permit" would be evidence that the person has indefinite leave to remain, it does not cause a grant of such leave.

For this application it appears that it is generally sufficient to demonstrate to the Home Office that the applicant:

- Was a Commonwealth citizen and 'ordinarily resident' in the UK on 1 January 1973
- Has not been absent from UK since 1 August 1988 for two years or more
- Is ordinarily resident in the UK at the date of the application.

This is a lighter version of the test in section 1(2) of the IA 1971 which requires that the person present in the UK or Islands was not subject to time restrictions on 1 January 1973 (for discussion see above). But even proving ordinary residence on 1 January 1973 needs to show that the person's presence was lawful.

An important question to ask is "Could the person have been made subject to conditions on an entry to the UK before 1973?" and consider the list under ** above.

A person not resident or present in the UK or Islands on 1 January 1973 may have acquired indefinite leave under section 34(3) of the IA 1971, which does not require that the person was present in the UK or Islands on 1 January 1973 (see above).

However, given the challenges to find evidence of residence and uncertainty as regards the law, such as the applicability of section 34(3) of the CIA 1962 and section 1(5) of the IA 1971, an express grant of indefinite leave to remain may be the most practical solution.

Evidence and Burden of Proof

The CIA 1962 made provision for landing and embarkation cards (section 5 of the First Schedule). The landing cards completed by Commonwealth citizens¹⁹, even those admitted for the first time without conditions, appear to have been not been retained. It is not known if the conditions of admission were systematically recorded on the cards, but useful information such as if a child was travelling with a parent or a wife with a husband would have been recorded.

In fact, the instructions to Entry Clearance Officers in 1970 stated “The Home Office keep no record of Commonwealth citizens admitted unconditionally, and cannot trace all of those admitted subject to conditions.”²⁰

It seems therefore that the only hard evidence of admission without conditions would be:

- The stamp in the passport used, or,
- The stamp on an entry clearance certificate, or an employment or Special Voucher.

In contrast, non-Commonwealth citizens (aliens) were recorded fairly systematically. Aliens were required to register periodically with the police, while the Home Office normally maintained a file on each. These records were generally kept at least until an alien naturalised as a CUKC.

What is stated above with regards admission to the UK before 1973 is also largely true of persons admitted to the UK between 1973 and about 2000 or so, and granted at entry “indefinite leave to remain” or whose passport was stamped “no time limit” at entry. Records other than the passport stamps are hard to obtain.

By contrast, in many countries, such as the US, Canada and Australia, the first entry of a person with ‘permanent residence’, even if granted on arrival by an immigration officer, would be carefully recorded and this record would

¹⁹ These were likely limited to Commonwealth citizens subject to control under the CIA 1962.

²⁰ TNA HO 344/86.

end up in a central register and can still be accessed today, usually with the landing form completed by the entrant. In fact, the record of grant or first entry with permanent residence is treated with similar importance to a record of grant of citizenship.

As regards the revocation before 1973 of conditions limiting the stay of a Commonwealth citizen in the UK, it is not clear what records still exist of the letters sent by the Home Office.

The standard of proof in establishing entitlement to a nationality and immigration status is the normal civil standard of the balance of probabilities (*Kessori Khatun* (4272)), i.e. it is enough to demonstrate better than 50% probability based on facts relating to the case, prevailing law, policies and practices. In particular, the Immigration Instructions operative when a person entered the UK may indicate if he or she could have been eligible for admission without conditions.

Where evidence is lacking other factors can be taken into account to build a case based on probability. As mentioned above, the Home Office have not kept records of an exceptionally important nature, namely admission without conditions before 1973, and thus expectations of evidence from claimants cannot be so high.

As mentioned, before July 1965, most Commonwealth citizens who entered the UK (having lived abroad) were admitted without conditions.

Sources of Evidence of Entry or Residence

For persons who arrived to the UK by ship, as was common before 1960, there are passenger lists.

If a person entered as a minor his entry can be inferred by birth outside the UK and health and schooling records.

If a woman entered with a husband this can be inferred from electoral registers later showing joint residence and full birth certificates of any children born in the UK subsequently.

Records of residence prior to 1973 exist in electoral registers, records of tax and national insurance, records of benefits and council rates, rental agreements, utility bills, bank statements.

There may in some be a record of a UK passport issued in the UK between July 1962 and Dec 1972, which may prove or strongly suggest the holder or a person included was not subject to control, under 2, 3 or 4 above. Note however the change on 2 March 1968. But note that an entry without conditions (before 1973) whilst not subject to control might not qualify a person to indefinite leave to remain under section 34(3).

Appendix A: Case Studies

These illustrate a variety of situations, in which a person might be start or cease to be:

- subject to control under the CIA 1962
- subject to conditions under the CIA 1962
- patrial (having right of abode) under the IA 1971
- a CUKC.

Today the person might be a British citizen, have indefinite leave to remain or have no UK immigration status at all.

Example 1: A CUKC from Jamaica

In 1956 a CUKC born in Jamaica was issued with a passport by the government of Jamaica.

In 1960 he came to UK to work.

From July 1962 he was subject to control under the CIA 1962. He was not subject to conditions. He had accumulated two years of unrestricted residence and was thus entitled to re-enter the UK without being subject to conditions.

On 6 August 1962 he became a citizen of Jamaica and ceased being a CUKC. He remains free of conditions.

On 1 Jan 1973 he was present in the UK and acquired indefinite leave to remain under section 1(2) of the IA 1971.

On 1 Jan 1983 he did not acquire British citizenship.

Example 2: A CUKC from Grenada

In 1956 a CUKC born in Grenada was issued with a passport by the government of Grenada.

In 1960 he came to UK to work.

From July 1962 he was subject to control under the CIA 1962. He was not subject to conditions and having accumulated two years of unrestricted residence he was entitled to re-enter the UK without being subject to conditions.

In 1966 he applied for UK passport in London (to replace his Grenada passport). He was issued with a passport not endorsed as being issued on behalf of the Commonwealth, because he was free of conditions. He was no longer subject to control to control under the CIA 1962.

On 1 Jan 1973 he acquired right of abode under section 2(1)(d) of the IA 1971 as he had been resident in the UK for 5 years and not subject to a time limit.

On 7 Feb 1974 he became a citizen of Grenada and ceased being a CUKC. He lost right of abode. He had no clear immigration status in the UK.

On 1 Jan 1983 he did not become a British citizen.

Example 3: A CUKC from British Honduras (later Belize)

In 1956 a CUKC born in British Honduras was issued with a passport by the government of British Honduras.

In 1960 he came to UK to work.

From July 1962 he was subject to control under the CIA 1962. He was not subject to conditions. He had accumulated two years of unrestricted residence and was thus entitled to re-enter the UK without being subject to conditions.

In 1966 he applied for UK passport in London (to replace his British Honduras passport). He was issued with a passport not endorsed as being issued on behalf of the Commonwealth, because he was free of conditions. He was no longer subject to control to control under the CIA 1962.

On 1 Jan 1973 he acquired right of abode under s. 2(1)(d) of the IA 1971 as he had been resident in the UK for 5 years and not subject to a time limit.

On 21 September 1981 he became a citizen of Belize, but he remained a CUKC because he had right of abode in the UK.

On 1 Jan 1983 he acquired British citizenship.

Example 4: A CUKC from the Colony of Aden

In 1956 a CUKC born in the Colony of Aden was issued with a passport by the government of Aden. From July 1962 he is subject to control under the CIA 1962.

In 1965 he came to UK to study and has conditions imposed at entry which limit his stay to 2 years.

In 1966 he applied for UK passport in London (to replace his Aden passport). He was issued with a passport endorsed as being issued on behalf of Aden as he was still subject to conditions. He remained subject to control under the CIA 1962.

On 30 Nov 1967 Aden ceased being a colony in 1967, but because he was ordinary resident in the UK he retained CUKC.

Soon after he applied for a UK passport. He is issued with a passport not endorsed as being issued on behalf of the Commonwealth, because his CUKC is no longer dependent on another part of the Commonwealth. He ceases to be subject to control (see 2 or 3 above). The same would also have been true if his passport been issued by a UK post overseas because he is a CUKC (see 3 above).

On 2 March 1968, when the CIA 1968 commenced, he remained free of control because his UK passport was issued in the UK. But if it had instead been issued a UK post overseas (other than Ireland) he would resume being subject to control (as 3 above ceased), though at entry to the UK he could not have been subject to conditions due to his recent ordinary residence (see 7 above).

On 1 Jan 1973 he acquired right of abode under section 2(1)(d) of the IA 1971 as he had been resident in the UK for 5 years and not subject to a time limit.

On 1 Jan 1983 he acquired British citizenship.

Example 5: A British Protected Person from Gambia Protectorate

In 1954 a British Protected person status born in Gambia Protectorate was issued with a passport by the government of The Gambia. He is subject to control under the CIA 1962 from July 1962.

In 1963 he comes to UK to study and has conditions imposed at entry which limit his stay to 2 years.

In 1964 he applied for UK passport in London (to replace his Gambia passport). He was issued with a passport endorsed as being issued on behalf of Gambia as he was still subject to conditions. He remained subject to control under the CIA 1962.

On 18 Feb 1965 the Gambia became independent, he did *not* become a citizen of The Gambia and he retained British Protected person status.

Soon after he applied for a UK passport. He was issued with a passport not endorsed as being issued on behalf of the Commonwealth, because his British Protected person status was not dependent on another part of the Commonwealth. He ceased to be subject to control (see 2 above). This would *not* have been true if his passport been issued by a UK post overseas because he was not a CUKC (see 3 above).

On 2 March 1968, when the CIA 1968 commenced, he remained free of control because his UK passport was issued in the UK.

On 1 Jan 1973 he was present in the UK and acquired indefinite leave to remain under section 1(2) of the IA 1971.

On 1 Jan 1983 he did not acquire British citizenship, for he was not a CUKC.

Example 6: A CUKC from Kenya

In 1955 a CUKC born in Kenya Colony was issued with a passport by the government of Kenya.

From July 1962 he was subject to control under the CIA 1962.

On 12 Dec 1963 Kenya became independent, he failed to become a citizen of Kenya and he retained CUKC.

In 1965 he was issued with a UK passport by the government of the UK via the British High Commissioner in Kenya not endorsed as being issued on behalf of the Commonwealth. He ceased being subject to control under the CIA 1962.

In 1966 he came to UK to work.

In 1970 he returned to Kenya.

On 1 Jan 1973 he acquired right of abode under section 2(1)(d) of the IA 1971 as he had been resident in the UK for 5 years and not subject to a time limit.

On 1 Jan 1983 he acquired British citizenship.

Example 6: A citizen of Trinidad and Tobago

In 1955 a CUKC born in Trinidad and Tobago was issued with a passport by its government.

From July 1962 he was subject to control under the CIA 1962.

On 31 Aug 1962 Trinidad and Tobago became independent, he became a citizen of Trinidad and Tobago and he lost CUKC.

In 1966 he came to UK to work using a Trinidad and Tobago passport and was admitted with conditions limiting his stay to 2 years. His wife and child accompanying him were admitted without conditions (none could be imposed – see 9 and 11 under ** above).

In 1968 he returned to Trinidad with his family.

On 1 Jan 1973 he and his family were resident in Trinidad.

On 1 Jan 1973 his child and wife acquired indefinite leave to remain under section 34(3) of the IA 1971.

On 1 Jan 1983 none acquire British citizenship, for none was not a CUKC.

Example 7: A Canadian citizen from Canada

In 1955 a Canadian citizen born in Canada was issued with a passport by its government.

From July 1962 he was subject to control under the CIA 1962.

In 1968 he came to UK to work using a Canadian passport and was admitted with conditions limiting his stay to 6 months.

Two months later his wife and child were Canadian citizens. They came to join him in the UK and were admitted without conditions (none could be imposed – see 8 and 10 under ** above).

In 1970 he returned to Canada with his family.

On 1 Jan 1973 he and his family were resident in Canada.

On 1 Jan 1973 his child and wife acquired indefinite leave to remain under section 34(3) of the IA 1971.

His wife visited the UK in 1985 and then departed. Her indefinite leave to remain lapsed on departure.

His son visited the UK in 2001 and then departed. His indefinite leave to remain lapsed after two years.

On 1 Jan 1983 none acquire British citizenship, for none was not a CUKC.