

## CONSIDERATION OF SECTION 4B APPLICATIONS

### 1. Alternative entitlement under section 4(2)

1.1 It is anticipated that most **s.4B** applicants will apply from outside the UK and have had little, if any, UK residence. However, **s.4B** applications from people who are equally entitled to registration under **s.4(2)** and **s.4B** should always be granted under **s.4(2)** because this confers British citizenship otherwise than by descent. Consideration should also, of course, be given to the possibility of an unsuccessful **s.4B** applicant having a **s.4(2)** entitlement.

### 2. Claims to have no other citizenship or nationality

2.1 If applicants have declared that they have another citizenship or nationality, they will not be eligible for registration. Even if an applicant declares that he has no other citizenship or nationality, it is possible that he will hold one because one of his parents holds a non-British citizenship or nationality or because the applicant has been registered or naturalised in a country in which he has resided. For these reasons, **applicants are requested to supply statements from the authorities of the country or countries concerned confirming that they do not have its/their citizenship or nationality.** Such letters of confirmation should not be taken at face value if they appear to contradict any information we hold about the citizenship laws of the countries concerned.

2.2 Basic information on the citizenship laws of some countries is given in

paragraphs 2.4 - 2.11 below. These summaries do not aim to be, nor should be taken as, comprehensive or definitive. Only the authorities in the relevant country can provide definitive advice on their citizenship law. However the information should normally be sufficient to determine an applicant's eligibility for British nationality where this turns on his/her possession, or not, of another citizenship. Critically, it is for the applicant to discharge the burden of proof and so show that they do not hold the other nationality in question. Caseworkers can use paragraphs 2.4 and 2.1 as part of their assessment but where additional evidence is required should ask the applicant to provide this by letter.

2.3 Where it appears that an applicant has been issued with a formal document (e.g. a passport or certificate) describing the person as a citizen of another country, but information held about that country's nationality laws indicates that dual nationality is not permitted, it should not be assumed that the document was issued incorrectly. Instead, further enquiries should be made. The applicant should be asked to provide a letter from the relevant authorities confirming that:

- the document concerned was issued in error, and
- the applicant was *at no time* a citizen of that country or lost the citizenship of that country on a specific date

## 2.4 Applicants of Kenyan origin

2.4.1 Kenya citizenship law does not allow dual nationality to be held by adults and Kenyan citizenship is lost at the age of 23 if any other citizenship held has not been renounced by then.

## 2.5 Applicants of Nepalese Origin

2.5.1 Information about Nepalese citizenship law can be found in paragraph 4.9 of Annex D to Chapter 14.

2.6 Applicants of Indian origin

2.6.1 Indian citizenship law does not, in general, allow for dual nationality. The only exception to this is for children who are dual nationals by birth. However even minors who are dual nationals by birth will automatically lose Indian citizenship if they acquire a passport in their other nationality.

2.6.2 More information about Indian citizenship law is contained in Annex H to **Chapter 14**.

2.7 Applicants of Pakistani origin

2.7.1 Applicants of Pakistani origin aged 21 or over normally lose Pakistani citizenship by acquiring another nationality (the exceptions - which include British citizenship but not other types of British nationality - are described in paragraphs 6 and 7 of Annex J to **Chapter 14**).

2.7.2 Applicants under 21 can normally hold another citizenship as well as Pakistani citizenship.

2.7.3 More information about Pakistani citizenship law is contained in Annex J to **Chapter 14**.

2.8 Applicants of Sri Lankan origin

2.8.1 Under the **Citizenship Act 1948**, citizens of Sri Lanka "by descent" (this term appears to include birth in Sri Lanka) who have another citizenship by operation of law (e.g. by birth or descent) must renounce the other citizenship before the age of 22, failing which they cease to be citizens of Sri Lanka on reaching that age. Sri Lankan citizens by descent or by registration who voluntarily acquire another citizenship (e.g. by registration or naturalisation) automatically cease to be citizens of Sri Lanka. It should be noted, though, that the **Citizenship (Amendment) Act 1987** made it possible for a person to apply to hold dual citizenship by either retaining or resuming Sri Lankan citizenship.

## 2.9 Applicants of Chinese ancestry

2.9.1 If applicants produce Hong Kong Permanent Identity Cards which have the symbol \*\*\*, it is almost certain that they are of Chinese ancestry and are Chinese citizens (despite the official disclaimer in Annex E to **Chapter 14**). They should therefore be asked, regardless of where they are applying, to contact the Hong Kong Special Administrative Region Immigration Department for confirmation that they are not Chinese citizens.

2.9.2 However, it should be noted that the issuing authority can remove these asterisks at the holder's request and, therefore, their absence is not conclusive proof that the holder is not a Chinese citizen. Where it appears from the application form or other information that applicants are wholly or partly of Chinese ancestry, they should normally be required to obtain confirmation from the Hong Kong Immigration Department that they are not Chinese citizens.

NB. Ethnically Chinese women who marry Muslim men usually adopt Muslim names on marriage. It is therefore important to ensure that the names before marriage of female applicants and their mothers are given (as required) on the application form, since a Chinese name may indicate a claim to Chinese citizenship.

## 2.10 Applicants of Malaysian origin

2.10.1 The **Constitution of the Federation of Malaysia** provides that Malaysian citizens may by order be deprived of citizenship if:

- they have acquired citizenship of any country outside the Federation either by registration, naturalisation or other voluntary and formal act (**Clause 24(1)**); or
- they have voluntarily claimed and exercised, in a foreign country, any rights available to them under that country's laws where those rights are accorded exclusively to that country's citizens (**Clause 24(2)**)

2.10.2 Under **Clause 24(3A)** of the **Constitution**, a person is deemed to have claimed and exercised a right mentioned in **Clause 24(2)** if, after 10 October 1963, he or she either:

- a. applies to the authorities of a place outside the Federation for the issue or renewal of a passport; or
- b. uses a passport issued by the authorities of a place outside the Federation as a travel document.

- 2.10.3 It had been our previous understanding, and the Malaysian government's position, that acquisition of a BOC passport by a Malaysian citizen was sufficient justification for the deprivation of Malaysian citizenship.
- 2.10.4 However on 21 February 2005 in the case of Lee Thean Hock, Judicial Review number 25-64-2004 the Penang (Malaysia) High Court took a different view. The Court drew a distinction between the acquisition of a British citizen passport, which could justify deprivation under Article 24(2) of the Constitution, and the acquisition of a BOC passport, which could not.
- 2.10.5 The AIT took the view in the case of Lim, Teh and Ting (Appeal numbers IA/08131/2006, IA/08613/2006 and IA/09419) that neither Article 24 or Article 27 (procedure for deprivation) of the Malaysian Constitution gave reason to conclude that a BOC lost Malaysian nationality by acquiring or using a BOC passport. Loss of citizenship is by order of the government, and not as a result of an individual's actions.
- 2.10.6 For the purposes of **s.4B(2)(b)** BNA 1981, it cannot therefore be assumed that the holder of a BOC passport has lost any claim s/he might otherwise have had to Malaysian citizenship. We should request evidence from the Malaysian authorities that the applicant does not hold Malaysian citizenship and has not, after 4 July 2002, given up or done anything to prompt the deprivation of that citizenship. The person should not be assumed to have lost Malaysian nationality on acquisition of a BOC passport, unless the Malaysian authorities confirm that s/he has been deprived of that status by order.

## 2.11 Applicants of Lebanese origin

Applicants of Lebanese descent.

2.11.1. The following general principles guide the consideration of applications from persons of Lebanese descent:

- a. A person whose name is on the Lebanese Personal Status Registry will be regarded as Lebanese and will not qualify for registration under section 4B.
- b. A person living in Lebanon on 30 August 1924 and who was formerly a Turkish subject will be regarded as Lebanese unless they can demonstrate that they opted under Articles 2 or 3 of regulation 2825 to become a Turkish citizen.
- c. A person born in Lebanon since 19 January 1925 will be regarded as Lebanese unless they acquired at birth another nationality including British overseas citizenship and British Protected Person. Where the parents are unknown, or their nationality is unknown, they will be regarded as Lebanese. Where the applicant's father was Lebanese the applicant should be regarded as Lebanese even if they also acquired at birth another nationality including British overseas citizenship or British Protected Person.
- d. Where an applicant, or their grandfather or their great-grandfather etc would be regarded as Lebanese under this policy, then the applicant will be regarded as Lebanese, unless he has evidence that his father was not Lebanese.
- e. A person who merely has the option to acquire Lebanese nationality following marriage to Lebanese national or opting to become a Lebanese national following the creation of Lebanon on 19 January 1925 will not be regarded as Lebanese.
- f. Anyone who appears to be of Lebanese descent who has brought a nationality case before the Lebanese courts and been declared not to be Lebanese will not be regarded as Lebanese.

In order to proceed with applications from persons of Lebanese descent confirmation will be required of the father and paternal grandfather's dates and places of birth and confirmation of their nationality.

2.11.2 Where persons who appear to be Lebanese nationals under the principles outlined above either hold or have acquired another nationality they will still be regarded as Lebanese nationals **unless** –

- a) The person was born outside Lebanon;
- b) They would only be regarded as a Lebanese national on the basis that their father or grandfather was Lebanese;
- c) They have not been registered as a Lebanese national; and
- d) They acquired another nationality (at birth or subsequently).

3. **Renouncing/voluntarily relinquishing/losing by action or inaction another citizenship or nationality after 4 July 2002 / 19 March 2009**

3.1 If applicants have declared that they had another citizenship or nationality but renounced it or otherwise lost it, we will need to see evidence of renunciation or loss and of the date on which this took place. The date of renunciation or loss is crucial since an applicant who renounced, voluntarily relinquished or lost through action or inaction any other citizenship or nationality after 4 July 2002 (or, if the applicant is a British National (Overseas), 19 March 2009) would not be entitled to registration.

3.2 It is not relevant whether an applicant was, or claims to have been, unaware that any action or inaction on his part would lead to the loss of the other citizenship or nationality. The mere fact that this action or inaction led to the loss means that there is no registration entitlement.

3.3 Therefore, applicants will not be eligible for registration if, after 4 July 2002 (or 19 March 2009, if a BN(O)), they:

- renounced that other citizenship or nationality (or voluntarily gave it up by some other active process equivalent to renunciation); or



- lost another citizenship or nationality as a direct consequence of their obtaining or applying for a British passport; or
- lost another citizenship or nationality as a direct consequence of their failure to give up a British passport or renounce British Overseas citizenship, British subject status or BPP status

3.4 Applicants who, after 4 July 2002 (or 19 March 2009, if a BN(O)), have had another citizenship or nationality taken away from them in the following circumstances should not be considered to have renounced it, voluntarily relinquished it or lost it by action or inaction:

- Deprivation on the grounds that it was obtained by forgery, fraud or concealment of material facts; or
- Deprivation on the grounds that the person concerned is unfit to hold it because of character, security etc considerations; or
- A declaration was made that a grant of citizenship was null and void from the outset