

Chapter 14 Annex A

Registration and naturalisation under legislation other than the British Nationality Act 1981

British Nationality Act 1948 - procedures, criteria and evidence to be supplied

1. General

1.1 All applications made under the 1948 Act should be considered as follows:

the application should have been "made" to the appropriate receiving authority
the relevant fee should be paid before the application is considered
an active record should be created for each individual application
the oath or affirmation of allegiance should not be taken until the application is approved

1.2 Where the application being considered is under a discretionary provision of the 1948 Act, and had previously been postponed or treated as abandoned, it may be appropriate to seek an explanation from the applicant for the reason for the delay in contacting the Home Office about the application. This will be particularly relevant where the application was one for registration under s.5A(2) or naturalisation under s.10 (see paragraph 2.6.2 or 6.2 below, as appropriate).

1.3 If the application is granted, the certificate of registration/naturalisation will need to show that it has been issued under Schedule 8 to the 1981 Act.

2. Sections 5A(1) & (2)

2.1 The application form should be checked to ensure that it was received on or after 1 January 1973, and that all the relevant sections of the form have been completed.

2.2 An application for registration under s.5A(1) should normally be supported by appropriate documentary evidence to establish that, on the date of application, the applicant:

was of full age; and

was either a citizen of a Commonwealth country, or a BSWC, or a woman who was registered as a British subject under the British Nationality Act 1965; and
had been ordinarily resident in the United Kingdom (see "ordinary residence" in Volume 2 Section II), or in relevant employment, for at least 5 years; and
(if the application is based, wholly or partly, on relevant employment other than Crown service) had close connections with the United Kingdom; and

had the right of abode either under s.2(1)(d) of the Immigration Act 1971, or under s.2(2) of the 1971 Act on the grounds of marriage to a man who had the right of abode under s.2(1)(d). (NB. It is not necessary for applicants to have been issued with a certificate of patriality or entitlement to right of abode under the appropriate

section of the 1971 Act. It is sufficient for applicants to demonstrate that, on the date of application, they would have qualified for such a certificate)

2.3 An application for registration under s.5A(2) should normally be supported by appropriate documentary evidence to establish that, on the date of application, the applicant:

was of full age; and

was either a citizen of a Commonwealth country, or a BSWC, or a citizen of the Republic of Ireland, or a woman who was registered as a British subject under the British Nationality Act 1965; and

had been ordinarily resident in the United Kingdom, or in relevant employment, for at least 5 years; and

(if the application is based, wholly or partly, on relevant employment other than Crown service) had close connections with the United Kingdom

2.4 Less than 5 years ordinary residence

2.4.1 There is discretion to register an applicant under s.5A where the period of ordinary residence is less than 5 years. However, discretion should not normally be exercised unless the applicant had a close connection with the United Kingdom before taking up residence in this country. Where the period of ordinary residence amounts to less than 3 years, discretion should be exercised only in exceptional circumstances.

2.4.2 It is for applicants to request discretion to allow a shorter period of ordinary residence, and supply details and evidence of close connections with the UK or of other special circumstances they wish to be taken into account. Where these have not been included in the application form or accompanying correspondence, the application may normally be refused.

2.4.3 In assessing whether a person had sufficiently close connections with the UK, consideration should be given to any relevant factors. Examples might be:

Whereabouts, nationality and place of birth of close family

Ownership of property

Nature of employment

Payment of UK taxes, and even

Family traditions (e.g. of residing in a particular country)

2.4.4 Inconvenience alone is not sufficient to justify the use of discretion, although compassionate reasons may be taken into account. Possession of the right of abode in the UK on the date of application may be a relevant factor in the case of applications under s.5A(2), but NOT under s.5A(1).

2.5 Less than 5 years relevant employment

2.5.1 With the exception of those in Crown service, persons applying on the basis of relevant employment are required to be closely connected with the UK. Discretion to grant an application where the applicant has been in relevant employment should be exercised only in exceptional circumstances.

2.6 Procedure in respect of other requirements

2.6.1 A s.5A(2) applicant should be expected to provide 2 suitable referees who

support the application, and we should make the necessary enquiries to ensure that the applicant satisfies the full capacity, good character, language and future intentions requirements. The application should be considered in accordance with the guidance contained in Chapter 18 Annexes B and E-H. In s.5A(1) cases, we need to consider only whether the full capacity requirement is met.

2.6.2 If the application has previously been postponed or treated as abandoned, it will normally be appropriate to seek an explanation from the applicant for the reason for the delay in pursuing the application, since this may give an indication as to whether the applicant satisfies the future intentions requirement.

3. Section 6(1)

3.1 An application for registration under s.6(1) should normally be supported by appropriate documentary evidence to establish that, on the date of application, the applicant:

was of full age; and

was either a citizen of a Commonwealth country, or a BSWC, or a citizen of the Republic of Ireland, or a woman who was registered as a British subject under the British Nationality Act 1965; and

had, depending on the date of application, been either:

i. ordinarily resident (see "ordinary residence" in Volume 2 Section II) in the United Kingdom throughout the preceding 12 months, or in Crown service under the Government of the United Kingdom; or

ii. ordinarily resident in the United Kingdom, and free from immigration restrictions throughout either the preceding 5 years or the period since 1 January 1973 (whichever was the longer).

4. Section 6(2)

4.1 An application for registration under s.6(2) should normally be supported by appropriate documentary evidence to establish that:

the applicant had, at any time, been validly married to a CUKC; and

if appropriate, the husband concerned did not lose CUKC as a result of any independence legislation

4.2 When considering an application under s.6(2), it should be noted that if the marriage took place before 1 January 1949 the applicant may have acquired CUKC automatically on that date under s.12(4) or s.12(5) of the BNA 1948, and may have become a British citizen on 1 January 1983 without the need for registration.

5. Section 7

5.1 Applications under s.7 should be considered in accordance with the guidance in Chapter 9. However, it should be noted that a minor can be registered under s.7(1) only if one of the parents was a CUKC on the date of application.

6. Section 10

6.1 Applications for naturalisation under s.10 should normally be considered in accordance with the guidance contained in Chapter 18.

6.2 If the application was previously postponed or treated as abandoned, it will normally be appropriate to seek an explanation from the applicant for the delay in pursuing the application, since this may give an indication as to whether the future intentions requirement is met.